

**2005 REPORT OF THE SECRETARY OF COMMERCE
TO THE CONGRESS OF THE UNITED STATES
CONCERNING U.S. ACTIONS TAKEN ON
FOREIGN LARGE-SCALE HIGH SEAS DRIFTNET FISHING
PURSUANT TO SECTION 206(e) OF THE
MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT,
AS AMENDED BY PUBLIC LAW 104-297,
THE SUSTAINABLE FISHERIES ACT OF 1996**

I. INTRODUCTION

Public Law 101-627: The President signed Public Law 101-627, the Fishery Conservation Amendments of 1990, on 28 November 1990. Title I, Section 107, of the law amended Section 206 of the Magnuson-Stevens Fishery Conservation and Management Act (hereafter referred to as the Magnuson-Stevens Act) (16 USC 1826) to incorporate and expand upon provisions of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987.

Section 206(b) of the Magnuson-Stevens Act sets forth Congressional findings, including inter alia that "the continued widespread use of large-scale driftnets beyond the exclusive economic zone (EEZ) of any nation is a destructive fishing practice that poses a threat to living marine resources of the world's oceans." It also notes the expansion of large-scale driftnet fishing into other oceans and acknowledges the 30 June 1992 global driftnet moratorium called for by United Nations General Assembly (UNGA) Resolution 44/225. Finally, Section 206(b) recognizes the moratorium on the use of large-scale driftnets agreed through the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention.

Section 206(c) sets forth Congress's driftnet policy, specifically that the United States should:

- (1) implement the moratorium called for by UNGA Resolution 44/225;
- (2) support the Tarawa Declaration and the Wellington Convention; and
- (3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

Section 206(d) directs the Secretary of Commerce, through the Secretary of State and the Secretary of Homeland Security, to seek to secure international agreements to implement immediately the findings, policy, and provisions of Section 206, particularly the international ban on large-scale driftnet fishing.

Section 206(e) directs the Secretary of Commerce, after consultation with the Secretaries of State and Homeland Security, to submit to Congress no later than 1 January an annual report (1) describing the efforts made to carry out Section 206, especially subsection (c); (2) evaluating the progress of those efforts, the impacts on living marine resources, including available observer data, and plans for further action; (3) listing and describing any new high seas driftnet fisheries developed by nations that conduct or authorize their nationals to conduct large-scale high seas driftnet fishing; and (4) listing nations that conduct or authorize their nationals to conduct high seas driftnet fishing in a manner that diminishes the effectiveness of or is inconsistent with any international agreement governing large-scale driftnet fishing to which the United States is a party. (The number of reporting requirements in Section 206(e) of Public Law 101-627 were reduced in 1996 to those above by Public Law 104-297, the Sustainable Fisheries Act.)

Finally, Section 206(f) provides that, if at any time the Secretary of Commerce, in consultation with the Secretaries of State and Homeland Security, identifies any nation that warrants inclusion in the list described in (4) above, the Secretary shall certify that fact to the President. This certification shall be deemed to be a certification for the purposes of Section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a), as amended by Public Law 102-582), commonly referred to as the Pelly Amendment. Such a certification gives the President discretion to embargo products imported into the United States from that nation, so long as such action is consistent with U.S. obligations under the General Agreement on Tariffs and Trade.

Public Law 102-582: On 2 November 1992, the President signed Public Law 102-582, the High Seas Driftnet Fisheries Enforcement Act. Among other things, this Act is intended to enforce implementation of UNGA Resolution 46/215, which called for a worldwide driftnet moratorium beginning 31 December 1992. Once the Secretary of Commerce identifies a country as a nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the EEZ of any nation, pursuant to the Act, a chain of U.S. actions is triggered. The Secretary of the Treasury must deny entry of that country's large-scale driftnet vessels to U.S. ports and navigable waters. At the same time, the President is required to enter into consultations with the country within 30 days after the identification to obtain an agreement that will effect the immediate termination of high seas large-scale driftnetting by its vessels and nationals. If these consultations are not satisfactorily concluded within 90 days, the President must direct the Secretary of the Treasury to prohibit the importation into the United States of fish, fish products, and sport fishing equipment from the identified country. The Secretary of the Treasury is required to implement such prohibitions within 45 days of the President's direction.

If the above sanctions are insufficient to persuade the identified country to cease large-scale high seas driftnet fishing within six months, or if it retaliates against the United States during that time period as a result of the sanctions, the Secretary of Commerce is required to certify this fact to the President. Such a certification is deemed to be a certification under Section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a), as amended by Public Law 102-582).

Public Law 104-43: Public Law 104-43, the Fisheries Act of 1995, was enacted on 3 November 1995. Title VI of this law, the High Seas Driftnet Fishing Moratorium Protection Act, prohibits the United States, or any agency or official acting on behalf of the United States, from entering into any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that would prevent full implementation of UNGA Resolution 46/215. Title VI also charges the Secretary of State, on behalf of the United States, to seek to enhance the implementation and effectiveness of the UNGA resolutions and decisions regarding the large-scale high seas driftnet moratorium through appropriate international agreements and organizations. Finally, the act specifies that the President of the United States shall utilize appropriate assets of the Department of Defense, the U.S. Coast Guard (USCG), and other Federal agencies, to detect, monitor, and prevent violations of the UN large-scale high seas driftnet moratorium for all fisheries under the jurisdiction of the United States, and to the fullest extent permitted under international law for fisheries not under U.S. jurisdiction.

The National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, in consultation with the Department of State and the Department of Homeland Security, submits the following report for 2005 in fulfillment of the Section 206(e) reporting requirement. Information pertaining to U.S. actions in support of the Act prior to 2005 and after 1988 can be found in the 1990-2004 annual driftnet reports to the Congress available from NMFS.

II. DESCRIPTION AND PROGRESS OF EFFORTS MADE TO CARRY OUT PROVISIONS OF SECTION 206(c) POLICY

A. Implementation of the Driftnet Moratorium called for by UNGA Resolutions 44/225, 45/197, and 46/215:

1. Current Status of the Driftnet Moratorium

As of 31 December 2005, the UNGA global moratorium on large-scale high seas driftnet fishing has been in effect for 13 years. International implementation of the moratorium in the world's oceans and enclosed and semi-enclosed seas continues to be generally successful, although problem areas remain. Of the two major problem areas in recent years, the North Pacific Ocean and the Mediterranean Sea, 18 vessels capable of conducting unauthorized large-scale high seas driftnet fishing operations were reported in the North Pacific Ocean in 2005. At least four vessels were reported operating on the high seas of the Mediterranean Sea in 2005.¹

a. North Pacific Ocean

No large-scale driftnet fishing vessels were intercepted on the high seas of the North Pacific Ocean by the international community in 2005. However, 18 vessels capable of driftnet fishing were sighted operating in the Northwestern Pacific. Four of these vessels were unidentified, raising the possibility of multiple sightings of the same vessel or vessels.

(1) Regional Driftnet Enforcement Coordination

North Pacific Anadromous Fish Commission (NPAFC): The NPAFC serves as a forum for promoting the conservation of anadromous stocks and ecologically-related species, including marine mammals, sea birds, and non-anadromous fish, in the high seas area of the North Pacific Ocean. This area, as defined in the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean (the Convention that established the NPAFC), is "the waters of the North Pacific Ocean and its adjacent seas, north of 33° North Latitude beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured." The members of the NPAFC are Canada, Japan, the Republic of Korea (ROK), Russia, and the United States.

¹ For purposes of this report, only those vessels that were visually confirmed as driftnet-capable have been considered sightings.

In addition, the NPAFC serves as the venue for coordinating the collection, exchange, and analysis of scientific data regarding the above species within Convention waters. It also coordinates high seas fishery enforcement activities by member countries. The Convention prohibits directed fishing for salmonids and includes provisions to minimize the incidental take of salmonids in other fisheries in the Convention area. Although it does not specifically ban high seas driftnet fishing, fishing for salmonids on the high seas has historically been carried out in this manner. As a result, the NPAFC and its enforcement activities are primarily targeted against high seas driftnet fishing vessels. All members of the NPAFC have for the last several years jointly planned and coordinated their high seas enforcement operations in order to most efficiently utilize all enforcement resources.

NPAFC Joint Operations Information Coordination Group (JOICG): The NPAFC established the JOICG in 2001 to exchange enforcement-related information via computer and communications technology for the protection of salmon resources in the NPAFC Convention Area. The JOICG is comprised of designated enforcement officials from each of the NPAFC Parties who serve as conduits for the exchange and dissemination of such information to their respective governments. Since November 2001, JOICG points-of-contact have communicated with each other at a minimum of once each month to ensure open lines of communication. The NPAFC Parties effectively used the JOICG to plan and coordinate in-season enforcement activities in 2005 and have agreed to continue the work of the Group in 2006.

NPAFC Enforcement Evaluation and Coordination Meeting (EECM): Representatives from the NPAFC Parties met in Vladivostok, Russia, on 18-19 May 2005, for the annual NPAFC EECM. The meeting included presentations by each Party on enforcement efforts to date in 2005; coordination of enforcement plans and resources for the remainder of 2005; a presentation on the trial use of an Integrated Information System (IIS), a software tool under development by Russia to improve information sharing and coordination; and a discussion on ways to improve and expand enforcement activities to combat illegal, unreported and unregulated (IUU) fishing in the Convention Area.

NPAFC Annual Meeting: The 13th Annual Meeting of the NPAFC was held in Seogwipo City, Jeju Island, ROK, on 24-28 October 2005. Enforcement officials of the Parties met under the auspices of the NPAFC Committee on Enforcement to review enforcement activities in 2005 and begin planning activities for 2006. Representatives of Taiwan observed the proceedings of the meeting.

As a result of the Parties' cooperative enforcement efforts in 2005, no vessels were detected engaged in illegal large-scale driftnet fishing for salmon in the NPAFC Convention Area. However, the Parties reported sighting 17 suspected high seas driftnet vessels operating in the North Pacific. The Parties were unable to investigate and, in some cases, positively identify, many of these vessels because of their remote location. In light of the continuing threat of unauthorized high seas salmon fishing in the Convention Area, Parties agreed to maintain 2006 enforcement efforts at levels similar to 2005 as a deterrent to unauthorized fishing activity. To coordinate enforcement efforts, the Parties agreed to hold the annual EECM in Juneau, Alaska,

from 28 February-1 March 2006. A symposium will be held in conjunction with the EECM on 2 March to provide a forum for discussing actual enforcement operations. The Parties also agreed to further refine the IIS website and adopted recommendations for enforcement procedures to be used when stateless vessels or vessels of non-member countries suspected of fishing illegally are encountered in the Convention Area.

The contributions of each NPAFC Party, the People's Republic of China (PRC), and Taiwan to the 2005 high seas driftnet fisheries enforcement effort are summarized below. Table 1 is a summary of high seas driftnet capable vessel sightings in the North Pacific Ocean in 2005.

(2) U.S. Driftnet Enforcement Efforts in the North Pacific

To monitor compliance with the UN driftnet moratorium, the USCG and the NMFS Office for Law Enforcement continued to carry out surveillance activities in North Pacific high seas areas that in the past were routinely fished by large-scale driftnet vessels. Operation North Pacific Watch, the USCG's 2005 high seas driftnet enforcement plan, began in April. From April-July 2005, USCG aircraft from Air Station Barbers Point Hawaii and Air Station Kodiak Alaska flew 5 deployments for a total of 138 surveillance hours in the NPAFC Convention Area (a total of 214 hours, including transit time).

The USCG Cutter *JARVIS* participated in an IUU fishing patrol, which included all of the NPAFC Parties and the PRC, from mid-May through July 2005. The *JARVIS* spent approximately 46 days in the NPAFC Convention Area, made port calls in Japan and the ROK, rendezvoused with Russian Border-Coast Guard and PRC Fisheries Law Enforcement Command (FLEC) patrol vessels, and embarked shipriders from the PRC FLEC and a professional exchange officer from the ROK to observe USCG IUU fisheries enforcement operations.

NMFS Special Agents and Enforcement Officers deployed with Canadian CP-140 and USCG C-130 air patrols in the NPAFC Convention Area spent a total of 159 person-hours engaged in high seas driftnet fisheries enforcement activities in 2005.

Patrol Results: USCG patrols did not detect any vessels actively engaged in fishing contrary to the NPAFC Convention and no vessel boardings were conducted by USCG cutters. However, the United States reported that at least 6 potential high seas driftnet vessels were sighted in the North Pacific in 2005 (included in Table 1). U.S. tuna fishermen in the western North Pacific reported sightings of at least 3 potential high seas driftnet vessels. They also reported 12 radar returns and 2 unconfirmed visual sightings of potential driftnet vessels.

On 16 May, a Canadian CP-140 patrol aircraft operating out of Shemya, Alaska, and coordinating with the 17th Coast Guard District in Juneau, Alaska, sighted the *ZHUU SHAN* at 41°47'N, 166°56'N, equipped with high seas driftnet fishing gear. U.S. albacore tuna fishermen reported sighting the *TUNG YANG 88* on 20 May actively fishing with approximately 12-14 nautical miles of driftnet gear near 35°26'N, 158°06'E. (A vessel with a similar name, the *TONG YANG 88*, was sighted by U.S. tuna fishermen at 39°N, 161°E, in June 2004.) Three days later, on 23 May, they reported sighting two unidentified driftnet vessels and making radar contact

Table 1. Driftnet-capable vessels detected operating in the North Pacific Ocean in 2005.

DATE	VESSEL NAME	FLAG	POSITION	SOURCE OF REPORT	ACTION
16 May	<i>ZHOU SHAN</i>	?	41°47'N, 166°56'E	Canadian CP-140 Aircraft	Sighting information passed to the NPAFC
20 May	<i>TUNG YANG 88</i>	?	35°26'N, 158°06'E	U.S. Albacore Tuna Fishermen	Sighting information passed to Belize, Taiwan, Indonesia, and the NPAFC
23 May	2* Unidentified	?	34°57'N, 159°01'E	U.S. Albacore Tuna Fishermen	Sighting information passed to the NPAFC
18 June	<i>LU RONG YU SHUI NO. 228</i>	PRC?	37°43'N, 160°33'E	Taiwan Coast Guard Patrol Vessel	Sighting information passed to the USCG
12 July	Unidentified	?	41°18'N, 160°07'E	USCG Aircraft	Sighting information passed to the NPAFC
29 July	Unidentified	?	44°44'N, 160°03'E	USCG Aircraft	Sighting information passed to the NPAFC
2 Sept.	<i>LU RONG YU 1327</i>	PRC?	44°40'N, 155°57'E	Fisheries Agency of Japan Research Vessels	Sighting information passed to PRC and the NPAFC
2 Sept.	<i>RONG YUAN YU 808</i>	PRC?	44°46'N, 156°12'E	Fisheries Agency of Japan Research Vessels	Sighting information passed to PRC and the NPAFC
2 Sept.	<i>RONG YUAN YU 809</i>	PRC?	44°46'N, 156°12'E	Fisheries Agency of Japan Research Vessels	Sighting information passed to PRC and the NPAFC
2 Sept.	<i>RONG YUAN YU 810</i>	PRC?	44°43'N, 156°10'E	Fisheries Agency of Japan Research Vessels	Sighting information passed to PRC and the NPAFC
2 Sept.	<i>RONG YUAN YU 807</i>	PRC?	44°40'N, 156°07'E	Fisheries Agency of Japan Research Vessels	Sighting information passed to PRC and the NPAFC
2 Sept.	<i>RONG YUAN YU 801</i>	PRC?	44°36'N, 156°06'E	Fisheries Agency of Japan Research Vessels	Sighting information passed to PRC and the NPAFC
1 Oct.	<i>VICTORY III</i>	?	41°52'N, 151°42'E	Fisheries Agency of Japan Patrol Vessel	Sighting information passed to the NPAFC
1 Oct.	<i>EVER RICH</i>	?	41°57'N, 151°-44'E	Fisheries Agency of Japan Patrol Vessel	Sighting information passed to the NPAFC
1 Oct.	<i>JUARA UNTUNG NO. 6</i>	Indonesia	42°-20'N 151°54'E	Fisheries Agency of Japan Patrol Vessel	Sighting information passed to the NPAFC
5 Oct.	<i>LU MU YU 6007</i>	PRC	41°41'N, 151°48'E	Fisheries Agency of Japan Patrol Vessel	Sighting information passed to the NPAFC
5 Oct.	<i>SHUNFA 8</i>	Georgia	41°45'N, 151°50'E	Fisheries Agency of Japan Patrol Vessel	Sighting information passed to the NPAFC
14 Oct.	9** Unidentified	?	40°40'N 170°E	U.S. Albacore Tuna Fishermen	Sighting information passed to the USCG

Note: Only those vessels visually confirmed to be driftnet-capable were counted in this report. Radar returns alone were not considered adequate confirmation that a vessel was driftnet-capable. In addition, several of the vessels above were unidentified, making multiple sightings of the same vessel or vessels possible.

* 7 vessels were reported on 23 May 2005, but only 2 were visually confirmed. The remaining 5 were radar returns.

** Of the 9 vessels reported on 14 October 2005, 2 were unconfirmed visual sightings at night and the remaining 7 were radar returns. None of these vessels were counted in the 18 sightings in the North Pacific Ocean in 2005.

with 5 potential driftnet vessels near 34°57'N, 159°01'E. No USCG assets were available to respond to the sightings. The vessels were believed to be targeting squid or tuna rather than salmon, as seawater temperatures in the area were 16°-20°C (the preferred temperature range for salmon is generally 3°-16°C).

USCG aircraft sighted many radar contacts not visually observed, which were believed to be a mixture of high seas driftnet capable vessels, legitimate operators, and vessels in transit. USCG aircraft detected two additional vessels capable of being used for large-scale driftnet fishing in July (12 July at 41°18'N, 160°07'E, and 29 July at 44°44'N, 160°03'E) but were unable to positively identify them. No USCG surface assets were available to investigate further.

In October 2005, the USCG received driftnet sightings from the U.S. tuna fishing industry in the vicinity of 40°40'N, 170°E. A U.S. tuna fishing vessel reported up to nine possible high seas driftnet fishing vessels--two unconfirmed visual sightings at night and seven radar returns. The vessel crew retrieved part of a driftnet. When a USCG aircraft investigated, only legitimate longline fishing operations were observed in the area. However, the USCG aircraft did observe a possible driftnet in the same vicinity of the U.S. tuna fishing vessel report. It is possible that the net was a "ghost" net, i.e., lost or abandoned gear no longer associated with a specific fishing vessel.

Follow-up: From vessel registry databases and sighting information, the United States had indications that the *TUNG YANG 88* was registered in Belize, owned in Taiwan, and homeported in Indonesia. When the United States contacted the countries about the vessel, Belize stated that the vessel had been previously deregistered from its vessel roles and Indonesian authorities stated that the vessel was neither registered nor homeported in Indonesia. Taiwan investigated the ownership link and reported that it could find no relevant information on the *TUNG YANG 88*. It appears that the vessel is stateless, operating independently on the high seas. Its controlling entity remains unknown.

(3) Canadian Driftnet Enforcement Efforts in the North Pacific

Canada conducted 17 aerial patrols for a total of 167 hours of surveillance covering 4 million square kilometers in the North Pacific high seas driftnet fishing area in 2005. Canadian flight operations involved two Department of National Defense (DND) CP-140 Aurora aircraft contracted by the Department of Fisheries and Oceans (DFO), associated flight crews, technicians and ground support, plus one DFO fishery officer and one NMFS special agent. The patrols were conducted from Eareckson Airfield, Shemya Island, Alaska, from late April-mid-May 2005. The general surveillance area was west of 160°W to the Russian EEZ and north of 38°N to the U.S. EEZ off Alaska. The 2005 patrol area was increased slightly over previous years. Coordinates were chosen based on the high probability of thermoclines used by salmon, USCG threat assessment information, experience, capabilities of the aircraft, and the NPAFC Convention Area. As in past years, a member of the Canadian DND assigned to the operational tasking of the aircraft was located at USCG 17th District Headquarters in Juneau, Alaska, to coordinate information and surface support operations.

Canadian surveillance flights obtained 564 radar targets within the operational area, of which 35 were visually identified. One possible driftnet vessel was sighted (previously described in the U.S. enforcement section) and three transport vessels were observed.

(4) Japan's Driftnet Enforcement Efforts in the North Pacific

Japan's 2005 driftnet fishery enforcement efforts consisted of the deployment in the North Pacific Ocean of 5 Fisheries Agency of Japan (FAJ) patrol vessels for a total of 81 ship days at sea from June-September, 2 Hokkaido local government patrol vessels for 78 ship days at sea from April-July, and 24 Japan Coast Guard vessels for a total of 191 ship days at sea from April-September. Japan Coast Guard and FAJ aircraft flew a total of 124 hours (102 hours for fixed wing and 22 hours for helicopter) and 35 hours, respectively, from April-September 2005, in the North Pacific.

In October 2005, FAJ research vessels sighted a number of vessels suspected to be illegally driftnet fishing in the vicinity of 44°-45°N, 155°-156°E. Japan believes that these vessels were PRC-flagged and has sent an inquiry to the PRC Government. FAJ patrol vessels also sighted what were believed to be Indonesian, PRC, and Georgian-flagged vessels suspected of driftnet fishing at 41°N, 151°E. Information provided by Japan on these vessels is included in Table 1.

At the NPAFC 13th Annual Meeting in Korea, Japan reminded the Parties that a driftnet vessel it boarded in 2004, the *CHUN JIN NO. 1*, was owned by a company in Taiwan and flagged in Georgia. Japan had contacted both Taiwan and Georgia and asked them to take action to prevent any reoccurrence of such fishing activity. However, Japan reported that Georgia still has Taiwan and PRC flag-of-convenience vessels on its registry. The NPAFC agreed to send a letter of complaint to the Georgian Government.

(5) Republic of Korea's Driftnet Enforcement Efforts in the North Pacific

The ROK Government was not able to conduct high seas fisheries enforcement operations in 2005. It has one patrol vessel capable of high seas fisheries enforcement duty, but that vessel is needed to patrol the ROK EEZ. The ROK did send an officer to participate in a professional exchange on board the USCG Cutter *JARVIS* (previously discussed in the U.S. enforcement section).

(6) Russian Federation's Driftnet Enforcement Efforts in the North Pacific

Russian patrols did not detect any illegal high seas driftnet vessels in 2005. The Border Service of the Federal Security Service of the Russian Federation utilized enforcement assets of the Northeast Regional Border Directorate in Petropavlovsk-Kamchatsky and the Pacific Regional Border Directorate-Coast Guard in Vladivostok to patrol the North Pacific Ocean for driftnet violations. The Border Service deployed two patrol vessels--the *VOROVSKY* and the *OREL*, both equipped with helicopters--from May to August 2005 in the NPAFC Convention Area. During July, the USCG Cutter *JARVIS* and the *VOROVSKY* formulated and executed a joint

patrol plan and officer exchange to target high seas driftnet violators in the North Pacific. The Russian Federal Border Service employed AN-72 aircraft for 5 of 10 planned aerial surveillance flights over the Convention Area from May through July. The other 5 flights were cancelled due to adverse weather conditions.

(7) People's Republic of China Driftnet Enforcement Efforts in the North Pacific

The People's Republic of China's Fisheries Law Enforcement Command (FLEC) continued to participate in high seas fisheries enforcement in 2005. For the third straight year, the PRC FLEC dispatched at least one patrol vessel to the North Pacific. The *ZHONG GUO YU ZHENG 202*, took part in a multinational IUU patrol, which included all of the NPAFC Parties, from mid-May through July 2005. The *ZHONG GUO YU ZHENG 202* patrolled the North Pacific for over 40 days in support of IUU enforcement and participated with the USCG Cutter *JARVIS* in a 3-day joint high seas driftnet patrol, which included officer exchanges, joint patrol planning, and aircraft law enforcement flights.

In addition to operational coordination and execution with the USCG Cutter *JARVIS*, 15 FLEC mid-level managers were hosted by the USCG in July 2005 in Kodiak, Alaska, and Alameda, California, for training and professional discussions. Additionally, the FLEC rotated four FLEC officers on board *JARVIS* as shipriders under the 1993 US-PRC Fisheries Enforcement MOU. (Both of these exchanges are described in more detail in section II.A.3.a.)

Although the PRC FLEC patrol vessel did not sight or board any PRC high seas driftnet vessels in 2005, its publicized patrol efforts and engagement with the United States and other NPAFC Parties are continuing to pose a strong disincentive for PRC vessels and nationals to engage in large-scale high seas driftnet fishing operations.

(8) Taiwan's Driftnet Enforcement Efforts in the North Pacific

The Taiwan Coast Guard has conducted high seas fisheries enforcement patrols in the North Pacific Ocean since 1993. Taiwan observers at the NPAFC 13th Annual Meeting reported that Taiwan dispatched two patrol vessels to the North Pacific from 29 April-1 November 2005, to monitor the activities of Taiwan fishing vessels. The vessels patrolled the area of 35°-45°N, 145°-175°E, for a total of 170 vessel days. On 18 June, one of the patrol vessels sighted the driftnet vessel *LU RONG YU SHUI NO. 228* at 37°43'N, 160°33'E. Taiwan relayed the sighting information to the USCG, but USCG patrol assets were not in a position to respond. Taiwan officials believe that the vessel was PRC-flagged.

Follow-up: Taiwan took legal action against the captain of the *CHUN JIN NO. 1* in 2005. The vessel was boarded by a Japanese patrol vessel in May 2004 while driftnet fishing for salmon in the NPAFC Convention Area. Japan determined that the vessel was registered in Georgia at the time of the boarding, but the captain and vessel owner were from Taiwan. The captain received a 5-month prison sentence and revocation of his license.

Taiwan determined that the *TUNG YANG 168*, a high seas driftnet vessel sighted by U.S. tuna fishermen in 2004, was likely Indonesian-flagged. Indonesia refuted registry of the vessel and informed the United States that Indonesia does not permit any of its fishing vessels to operate outside of its EEZ. Taiwan will continue to investigate the vessel.

(9) Potential Driftnet Threat in the North Pacific Ocean in 2006

Despite the actions taken by the international community to implement the UN global driftnet moratorium, large-scale high seas driftnet fishing activity persists in the North Pacific Ocean. The high threat areas for illegal large-scale high seas driftnet fishing in 2006 are expected to remain fairly consistent with those areas where such activity was detected in the past, although the target fishery has shifted from salmon to primarily squid and tuna. Driftnet fishing targeting salmon is expected to take place north of 47°N, west of 173°E, and bounded by the U.S. and Russian EEZs. The greatest threat period for salmon is generally from April through June and for other species, May through November. High seas driftnet fishing vessels targeting squid may deploy nets in areas of strong temperature change. Targeted areas primarily include waters with a sea surface temperature (SST) between 14-17° Celsius (C). These waters typically occur in the North Pacific between 38°-48°N and 150°E-165°W. Strong evidence suggests fishing vessels target areas where SST changes rapidly over short distances. Historical evidence shows that Japanese fishing vessels deployed driftnets in areas where SST may differ by 2-3° C from one end of the net to the other. Prime fishing areas may be locations where the SST isotherm dips down to the south and forms a "U" shaped pocket.

U.S. Driftnet Enforcement Efforts for 2006: To support U.S. enforcement efforts in the North Pacific in 2006, the USCG will conduct surveillance and patrols at levels comparable to recent years. USCG high endurance cutters will continue to emphasize fisheries enforcement patrol effort in the U.S. EEZ, giving them the capability to potentially respond to suspected high seas driftnet sightings in the NPAFC Convention Area. Additionally, the USCG intends to continue its policy of issuing *Local Notices to Mariners* prior to and during the high-threat driftnet fishing season requesting information from U.S. fishermen. As shown by 2005 sightings in Table 1, reporting by U.S. fishermen is critical to U.S. and international efforts to stop illegal driftnet fishing.

NMFS will continue to place enforcement officers on Canadian high seas driftnet surveillance flights during 2006 deployments and on USCG HC-130 aircraft deployments when possible.

Canadian Driftnet Enforcement Efforts for 2006: The Canadian Government will commit 180 hours of air surveillance time to high seas driftnet fisheries enforcement in 2006, however no firm dates have been set for aircraft deployments.

Japanese Driftnet Enforcement Efforts for 2006: Japan intends to maintain the same level of enforcement effort in 2006 as in 2005.

ROK Driftnet Enforcement Efforts for 2006: The ROK has no plans for enforcement in the NPAFC Convention Area in 2006, but said it would like to participate in the enforcement activities conducted by the United States, if possible.

Russian Driftnet Enforcement Efforts for 2006: The Russian Coast Guard will utilize *DZERZHISKY* and *BARS* class patrol vessels to patrol the Russian EEZ, including the northern part of the NPAFC Convention Area, from April-September. Russia also plans to conduct 7 surveillance flights over the Convention Area from May to August using AN-72 aircraft.

Multilateral Enforcement Efforts for 2006: The Parties to the NPAFC have agreed to maintain 2006 enforcement efforts at comparable levels to recent years to ensure a sufficient enforcement presence in the area to serve as an effective deterrent. The Parties will coordinate enforcement efforts at the EECM in Juneau, Alaska, from 28 February-1 March 2006.

b. Mediterranean Sea

In addition to the UNGA global moratorium on large-scale high seas driftnet fishing, several other international mechanisms are in place to prohibit large-scale driftnet fishing in the Mediterranean Sea:

European Union (EU) Ban on Driftnets: In 1997, the EU began to consider an EU-wide driftnet ban in the Mediterranean Sea and North Atlantic Ocean as a means of complying with the UN driftnet moratorium. On 8 June 1998, the EU Fisheries Council adopted Council Regulation 1239/98 banning the use of driftnets by 1 January 2002 in all waters falling within the jurisdiction of Member States, as well as outside those waters. The EU driftnet ban entered into force on 1 January 2002.

General Fisheries Commission for the Mediterranean (GFCM): At its 22nd Session in October 1997, the GFCM adopted binding resolution 97/1 concerning the use of large-scale pelagic drift-net gear. The resolution, taking UNGA resolution 44/225 into account and considering that uncontrolled expansion and growth of driftnet fishing may entail serious disadvantages in terms of increased fishing effort and increased bycatches of species other than target species, prohibited vessels flying the flag of a Contracting Party of GFCM from keeping on board, or fishing with, one or more drift-nets whose individual or total length is more than 2.5 km.

At the 20th Session of the GFCM on 21-25 February 2005, the Commission adopted ICCAT Recommendation 03-04 (described below) prohibiting the use of driftnets for fisheries of large pelagics in the Mediterranean Sea as Recommendation GFCM/2005/3(A) (Attachment 1).

International Commission for the Conservation of Atlantic Tuna (ICCAT) Driftnet Recommendation: On 26 November 2003, ICCAT adopted at its 18th Annual Meeting in Dublin, Ireland, Recommendation (03-04) which prohibits the use of driftnets in fisheries for large pelagic species in the Mediterranean by its Contracting Parties, Cooperating Non-Contracting Parties, Entities, and Fishing Entities. Contracting Parties are legally bound by the recommendation. In practical terms, the recommendation closes a driftnet fishing loophole that

could be used by countries which are members of ICCAT but not the EU, and therefore are not bound by the EU driftnet ban. Unlike the UN high seas driftnet moratorium, neither the EU ban nor the ICCAT recommendation differentiates between driftnet fishing on the high seas or in territorial waters--driftnet fishing is prohibited in both.

Developments in 2005:

Nongovernmental organizations (NGO) continued to assert that up to 600 vessels with driftnets from 7-9 km in length, are operating throughout the Mediterranean Sea. The United States received press reports documenting at least four sightings of large-scale driftnet vessels operating on the high seas of the Mediterranean in 2005.

Morocco: On 20 November 2003, the World Wildlife Federation (WWF)-International released a report titled "Biodiversity impact of the Moroccan driftnet fleet in the Alboran Sea." The report claimed that the Moroccan driftnet fleet, with 177 vessels, was killing thousands of dolphins and other vulnerable species, such as sharks and sea turtles, in the Alboran Sea and around the Straits of Gibraltar. The WWF also alleged that Italian, French, Turkish, and most probably other fishing fleets are using driftnets in breach of existing legislation and the United Nations driftnet moratorium. The WWF report came out in advance of the Conference on Mediterranean Fisheries, which was held in Venice, Italy, on 23-25 November 2003. The WWF urged the EU to monitor and prosecute all of the fleets of its member states using driftnets. It also called on the GFCM, and non-EU countries, particularly those in North Africa, to introduce legislation banning the use of driftnets in the Mediterranean Sea.

At the 2003 ICCAT Annual Meeting, Morocco admitted to having a driftnet fleet. At the time ICCAT's driftnet recommendation was adopted, Morocco made a statement for the record of its intention to devise a national plan to phase out driftnet gear and pledged to work with the EU and others to accomplish this. At the 15-21 November 2004 ICCAT Annual Meeting in New Orleans, Morocco presented a 4-year plan for eliminating the use of driftnets in its fisheries, primarily through public education and assistance to its fishermen. The U.S. ICCAT delegation highlighted the urgency of this action and offered to work with Morocco to help expedite implementation of the plan.

A U.S. delegation traveled to Morocco from 26-28 September 2005 to discuss issues related to ICCAT and large-scale driftnets. Three of the goals of the trip were to learn about driftnet use by Morocco and other countries bordering the Mediterranean, to educate Morocco on U.S. driftnet laws and to explore possible areas of cooperation and capacity building, especially regarding the phaseout of Morocco's driftnet fleet. Morocco expressed the need for assistance in transitioning its driftnet fleet to other, more selective gears and noted that it is in the second year of its driftnet elimination plan. The plan calls for buying driftnets and disposing of them. Morocco also expressed an interest in working with the United States on analysis of the social and economic impacts of eliminating its driftnet fleet, including the effect on fishermen, the social loss associated with such a change, and the cost of vessel/gear replacement. The United States has earmarked funds to help with some aspects of Morocco's driftnet elimination program.

The United States will be working with Morocco in the near future to determine the best use of the funds to achieve the goal of ending Moroccan driftnet fishing.

On 28 July 2005, the EU and Morocco signed a new fisheries partnership agreement after 6 years of negotiations. Under the new 4-year agreement, which begins in 2006, a total of 119 EU vessels will be allowed to fish in Moroccan waters in exchange for EU compensation of approximately \$42 million per year. A substantial portion of this compensation will be earmarked for measures specifically designed to fund the conversion of the Moroccan driftnet fleet to more sustainable fishing activities.

Turkey: In regard to NGO charges that Turkey is using large-scale high seas driftnets, Turkey told the United States in a bilateral meeting on 29 September-1 October 2005 that it has fewer than 100 driftnet vessels, each less than 15 meters long. The vessels fish with nets that are 800-1,000 meters long. Turkey claims that these are small-scale operations targeting swordfish in the Mediterranean off the southwest corner of Turkey. Although these vessels may not be violating the UN driftnet moratorium, Turkey is a member of ICCAT and the GFCM and is fishing in violation of ICCAT and GFCM rules. On 3 October 2005, Turkey opened accession negotiations with the EU, which banned the use of all driftnets by EU member nations beginning in 2002. Turkey must agree to adopt the common rules, standards, and policies that make up the body of EU law as a prerequisite to accession. This would include terminating its driftnet fleet.

Italy: The status of the Italian driftnet situation is provided in Section II.B.3.b. below.

2. Interagency Agreements

Fisheries Enforcement Memorandum of Understanding (MOU): On 11 October 1993, the Secretaries of Transportation, Commerce, and Defense entered into the Memorandum of Understanding Between the Secretary of Transportation, the Secretary of Commerce and the Secretary of Defense Relating to the Enforcement of Domestic Laws and International Agreements that Conserve and Manage the Living Marine Resources of the United States. The MOU, required under Section 202 of Public Law 102-582, the High Seas Driftnet Fisheries Enforcement Act, established a mechanism for the use of the surveillance capabilities of the Department of Defense for locating and identifying vessels violating U.S. marine conservation laws and international agreements, including UNGA Resolution 46/215. The MOU also set formal procedures for communicating vessel locations to the Secretary of Commerce and the U.S. Coast Guard. A copy of the MOU was attached to the 1993 Driftnet Report to the Congress. There are no other interagency agreements regarding high seas driftnets.

3. Bilateral Driftnet Agreements

a. U.S.-PRC MOU

The United States and the PRC continued to work together in 2005 to ensure effective implementation of UNGA Resolution 46/215 in the North Pacific Ocean pursuant to the terms of the *Memorandum of Understanding Between the Government of the United States of America*

and the Government of the People's Republic of China on Effective Cooperation and Implementation of United Nations General Assembly Resolution 46/215 of December 20, 1991, signed in Washington D.C. on 3 December 1993. The MOU (also referred to as the "U.S.-PRC Shiprider Agreement") established boarding procedures for law enforcement officials of either country to board and inspect U.S. or PRC flagged vessels suspected of driftnet fishing. The MOU also established a shiprider program, which allows PRC fisheries enforcement officials to embark on U.S. Coast Guard resources during each driftnet fishing season. Pursuant to this provision, the PRC has provided a total of 38 enforcement officials to the USCG since 1994. As a bilateral enforcement agreement, the MOU facilitates/expedites investigations of suspicious vessels when they are encountered on the high seas. The MOU will expire on 31 December 2009.

A total of four PRC shipriders were deployed on the USCG Cutter *JARVIS* or at the USCG North Pacific Regional Fisheries Training Center (NPRFTC) in Kodiak, Alaska, from 11 April-31 August during the 2005 high seas driftnet fishing season. These officials were instrumental in facilitating communications between the USCG and the PRC FLEC. The USCG, with continued funding support from NMFS, hopes to host a similar number of PRC officials during the 2006 fishing season.

The NPRFTC hosted 15 officials from the PRC FLEC for 5 days of training on 11-16 April 2005. The training was given by USCG, NOAA Fisheries, and Department of Justice personnel and focused on the U.S. management of living marine resources covering a range of topics from the overarching legislation that governs U.S. domestic fisheries management and enforcement to the details of how the U.S. conducts domestic and high seas enforcement operations. The PRC officials also visited Kodiak's waterfront, and toured local canneries and fishing vessels, as well as USCG patrol assets. The visit, funded by NOAA, built upon an already-strong enforcement partnership between PRC and U.S. fisheries enforcement agencies. The training directly supported USCG efforts aimed at combating IUU fishing in the Pacific by partnering with the PRC to educate members of its FLEC on this subject. The training also complemented the U.S.-PRC Shiprider Agreement. It is further evidence of the PRC's desire to improve its law enforcement capabilities and to eliminate illegal fishing from its waters and by PRC vessels on the high seas.

b. U.S.-Italy Driftnet Agreement

Background: Following an order of the U.S. Court of International Trade, the United States on 19 March 1999 identified Italy as a nation for which there was reason to believe its nationals or vessels were conducting large-scale driftnet fishing beyond the EEZ of any nation, pursuant to the U.S. High Seas Driftnet Fisheries Enforcement Act (the Act). This marked the second time the United States identified Italy pursuant to the Act (the first identification was in 1996). As a result of the identification, the United States began consultations with the Government of Italy on 17 April 1999 to obtain an agreement to effect the immediate termination of such activities.

Agreement was formally reached by the two countries on 15 July 1999 via an exchange of diplomatic notes. Complete details of the agreement can be found in the NMFS 1999 Driftnet Report to the Congress.

The 1999 driftnet agreement reiterated the Government of Italy's commitment to full implementation of the measures to combat large-scale high seas driftnet fishing contained in the 1996 U.S.-Italy driftnet agreement. As a result of Italy's driftnet vessel conversion program (a product of the 1996 agreement), about 85 percent of Italy's driftnet fleet of 679 vessels were converted to other fishing methods or scrapped by March 2000. The Government of Italy expected the remaining vessels to continue to fish in Italian waters until the EU driftnet ban entered into force in 2002 (Italy is a member of the EU).

Italy took a number of measures in addition to the driftnet vessel conversion program to strengthen the enforcement of its laws relating to driftnet fishing. It publicized a March 1999 court decision prohibiting the possession, as well as use of, driftnets longer than 2.5 kilometers. Italy increased boarding and inspections of driftnet vessels at dockside. The Italian Government implemented a detailed 1999 enforcement action plan involving joint enforcement efforts with European Union fisheries inspectors and proposed bilateral enforcement agreements with other EU Mediterranean countries. The Italian Coast Guard committed to increase at-sea monitoring by regional Coast Guard districts and spot checks of seized driftnets, until such netting can be destroyed.

In 2003, the Italian Government took the following additional steps to bring any remaining driftnet fishing activity to an end:

- Enacted legislation in December 2002 that required "compulsory dismissal or conversion" (boats could be scrapped or convert to another gear type) of the driftnet fishing licenses of the remaining 89 licensed driftnet vessels that did not participate in Italy's earlier driftnet conversion program. The legislation allocated a total of €5 million, half to be distributed as compensation to vessel owners and the other half to crew members. This sum included funds provided by the Sicilian and Calabrian regional governments.
- Identified crew members and vessel owners who would be compensated under the compulsory retirement scheme.
- Cancelled the driftnet portions of the fishing licenses of all of the 89 remaining vessels.
- Deleted the names of those vessels from the EU Vessel Registry, which contains a unique registration number for each vessel.
- Seized and sealed the driftnets from all 89 vessels. According to the law, the driftnets can be "recycled or transformed" and the owners will get to keep the profits from recycling operations.

- Received European Commission approval for Italy's compensation plan in February 2003. Part of the Commission's review included a finding that the buyback funds were not a "market-distorting measure."
- Sought to initiate a uniform sanction scheme among all EU member states in order to reduce disparities in the level of sanctions applied for fisheries violations.
- Considered the use of marine reserves and marine sanctuaries to protect spawning and nursery areas for marine species.

2004: Pursuant to a meeting on 22 January 2004 between representatives of the U.S. Department of State, U.S. Embassy in Rome, and Italy's Under Secretary of Agriculture, Paolo Scarpa Bonazza Buora, Italian enforcement officials provided 2003 enforcement data to the U.S. Embassy in Rome. The data showed that all of Italy's 2003 driftnet violations occurred in Italian national waters (i.e., not in the high seas portion of the Mediterranean Sea). A total of 92 nets with a combined length of 359 km were seized by Italian authorities.

2005: Environmental groups continued to claim that Italian vessels were still fishing with driftnets in Mediterranean waters in 2005. In March 2005, the Royal Society for the Prevention of Cruelty to Animals (RSPCA) and the Humane Society International (HSI) reported on an investigation by the Italian cetacean organization, DELPHIS, into the use of driftnets by Italy off the coast of the island of Ischia in 2004. Over a 67-day period, DELPHIS observers detected 9 driftnet vessels fishing illegally (3 of which may have been fishing in international waters). The lengths of the nets were not reported. RSPCA and HSI observers identified 15 Italian vessels equipped with driftnets estimated to range in length from 9 to 84 kilometers in Ischia harbor in 2004. Of all of the vessels detected, five had the same registration numbers as vessels that had accepted the EU conversion buyout funds prior to the EU ban on driftnet fishing. The RSPCA, HSI, and DELPHIS turned over their findings to the EU, prompting EU Fisheries Commissioner Joe Borg to state that he intended to take action against Italy for the violations identified in the monitoring project.

During the summer of 2005, the *RANGER*, a research vessel belonging to the conservation group Oceana, identified 37 Italian fishing vessels in 6 Italian ports and at sea with driftnets on board. Oceana reported that 18 of the 37 had previously received subsidies from the Government of Italy to stop using driftnet gear.

Based on information provided by the above environmental groups, the United States embarked on a series of bilateral and multilateral efforts to address this issue. Ambassador David Balton, Deputy Assistant Secretary of State for Oceans and Fisheries, sent a letter to Italy's Under Secretary for Fisheries, Paolo Scarpa Bonazza Buora, on 9 June 2005 urging the Italian Government "to take all necessary actions to ensure that large-scale driftnet fishing is not occurring, and, if it is occurring, that it be stopped promptly." The letter was delivered by the Minister Counselor for Agricultural Affairs at the U.S. Embassy in Rome. Ambassador Balton reminded Under Secretary Scarpa Bonazza that, in addition to the 1992 United Nations global

moratorium on large-scale high seas driftnet fishing, both ICCAT and the GFCM have prohibited the use of all driftnets to catch large pelagic fish in the Mediterranean Sea. He informed the Under Secretary that the United States would be seeking information on Italy's implementation of the ICCAT driftnet resolution at the 2005 ICCAT Annual Meeting. In addition, Ambassador Balton requested information on Italian driftnet violations and enforcement action taken by the Italian Government in 2004 and 2005.

In response to Ambassador Balton's letter, Under Secretary Scarpa Bonazza told U.S. Embassy officials that the Italian Government strongly opposes illegal driftnet activities and that it is working with the GFCM to ban the use of driftnets in the Mediterranean Sea by non-European countries. He instructed Italy's Deputy Director of Fisheries, Elisabetta Giannocari, to provide the United States with 2004 and 2005 enforcement data.

On 26 July, the U.S. Embassy in Rome received a summary of the enforcement activity from the Port Captaincies of Catania, Palermo, Cagliari, Reggio Calabria, Rome, and Naples for 2004. The Captaincies reported a total of 189 driftnet violations and seized 267.7 km of nets. According to the Italian Fisheries Directorate, 402 km of driftnets were seized through the end of July 2005. Because the 2004 and 2005 driftnet enforcement statistics did not specify whether the violations occurred in territorial or international waters, the United States requested clarification. In addition to seizure of their catch and gear, violators may be fined from €500-€3000 (approximately \$600-\$3,500). The United States believes that Italy's enforcement statistics support statements by the Italian Government that it is making an effort to ensure compliance with relevant international agreements, as well as Italian and European Commission (EC) rules, related to driftnet fishing.

Italy's Port Captaincy General Command sent out two circular letters, dated 23 June and 30 June 2005, requesting that southern port authorities increase monitoring and enforcement for driftnet violations. The first letter reminded them that "driftnets cause uncountable damage to the marine ecosystem" and asked them to report enforcement action plans and results to the General Command. The second circular letter reminded port authorities to check if any illegal driftnet vessel owners had received compensation money from Italy's driftnet conversion plan. If so, they were asked to notify the courts, as this would be considered an act of fraud (a violation of Italy's penal code). Italian authorities identified 40 such cases.

The Italian press has also reported that Italian Port Captaincies actively enforced Italian and EC driftnet laws in 2005. Several examples follow:

- 4-5 June 2005: The Sicilian press reported that Customs police caught a vessel fishing with driftnets near the Eolic Islands. They seized the net, fined the fishermen, and reported the vessel's owner to the courts for committing fraud against the Government of Italy and the EC.
- 25 June 2005: The "Gazzetta del Sud," a Sicilian newspaper, reported that port authorities caught four vessels fishing illegally in international waters outside the Eolic Islands and seized 30 km of nets.

- 29 July 2005: The "La Sicilia," a Sicilian newspaper, reported an enforcement action by Carabinieri against illegal driftnet fishermen. Carabinieri caught 3 vessels in the port of Porticello (Palermo) with illegal driftnets on board, seized 24 km of nets (8 km of nets per vessel) and fined the owner. The article also mentioned that Carabinieri had begun to specifically monitor driftnet violations along the coast of Sicily near Palermo a few weeks prior to this particular enforcement action.

On the multilateral level, the United States appealed to the EC to take appropriate steps to strengthen enforcement of its driftnet ban. A copy of Ambassador Balton's letter was provided to the EC's Directorate-General for Fisheries and Maritime Affairs in June 2005. At the U.S.-EC high level fisheries bilateral meeting in Washington, D.C., on 27 June, the representative of the Directorate-General assured the U.S. delegation that the EC is actively engaged on this issue.

The EC Directorate for Fisheries and Maritime Affairs began an "infringement procedure" against Italy in November 2004, after monitoring the driftnet situation in Italy for several years and concluding that Italy was not complying with EC driftnet legislation. Article 226 of the EC Treaty gives the Commission power to take legal action against a member country that has not complied with EU law. The process may take considerable time to complete, and, if the Commission concludes that there has been an infringement of EU law, it may call upon the member country to comply within a specified period of time (this is known as a "reasoned opinion"). In the event that the country fails to comply with the Commission's ruling, the Commission may bring the case before the European Court of Justice. If the Court of Justice upholds the Commission's ruling, the member country is required to take all necessary measures to conform. Failure of the member country to comply with the Court's judgment could ultimately result in a financial penalty. The penalties for noncompliance by a member country can be significant. The Directorate's Office of Legal Services is currently reviewing Italy's response to the Commission's second reasoned opinion. The results will determine whether the case is turned over to the European Court of Justice. The United States is following the infringement proceedings closely.

According to the EC fisheries official responsible for monitoring and enforcement, the EC sent enforcement inspectors to southern Italian ports in summer 2005. The U.S. Embassy in Rome learned from a report provided by the Port Captaincy of Cagliari (southern Sardinia) that two EU inspectors visited the Captaincy on 4-6 July 2005. They examined driftnet regulation documents and enforcement statistics; visited the ports of Sant' Antioco and Calasetta; inspected the warehouse where seized driftnets are kept sealed; and conducted a night inspection by aircraft, but found no problems to report. According to the Port Captaincy's report, the inspectors expressed appreciation for the Captaincy's cooperation and for taking driftnet enforcement actions which resulted in the seizure of 28.7 km of driftnets.

There have been concerns that the Italian Government is passing national laws allowing driftnet-like gear to be employed by Italian fishermen to circumvent the various driftnet bans. An Italian ministerial decree was published in Italy's Official Gazette in April 2005 permitting Italian fishermen to use modified large-scale anchored gillnets from 15 April-31 July 2005 within

Italian territorial waters around a number of islands. The decree met with opposition from several non-governmental organizations and the Lazio Region Administrative Court ultimately rejected it on 20 June 2005. Under Secretary Paolo Scarpa Bonazza Buora issued another ministerial decree on 1 July withdrawing the April decree in order to be consistent with the EU policy. The Under Secretary's decision was strongly influenced by the EU Fisheries Commission's opinion that this type of gear is considered a driftnet and is therefore prohibited under EU law.

On 16 December 2005, Dr. William Hogarth, Assistant Administrator for Fisheries, NMFS, sent a letter to Mr. Joe Borg, EC Commissioner for Fisheries and Maritime Affairs, urging the EC to take all necessary actions to ensure that EU members are not fishing with driftnets or driftnet – like gear in the Mediterranean Sea. He also urged the EC to be proactive on the driftnet issue in ICCAT and the GFCM. He offered to work closely with the EC to ensure that the driftnet issue is effectively addressed in the Mediterranean Sea.

4. Resolutions and Letters in Support of UNGA Resolution 44/225

a. UNGA Driftnet Resolutions and Decisions

Details on UNGA Resolutions 44/225 (1989), 45/197 (1990), 46/215 (1991), 50/25 (1995), 51/36 (1996), 52/29 (1997), 53/33 (1998), 54/32 (1999), 55/8 (2000), 57/142 (2002), 58/14 (2003), 59/25 (2004) and UNGA Driftnet Decisions 47/443 (1992), 48/445 (1993), and 49/436 (1994), and supporting resolutions and actions taken by the United States in other fora prior to 2005 have been provided in previous driftnet reports to the Congress available from NMFS.

On 17 November 2005, at its 60th session, the UNGA adopted Resolution 60/L.23, *Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and related instruments* (Attachment 2). Section VI of the Resolution reaffirms the importance the General Assembly attaches to continued compliance with Resolution 46/215 and other subsequent resolutions on large-scale pelagic driftnet fishing. It urges States and other entities identified in Article I, paragraph 2(b) of the Agreement to enforce fully the measures recommended in those resolutions. Finally, it requests that the Secretary-General bring the Resolution to the attention of the international community, relevant intergovernmental organizations, the organizations and bodies of the UN system, regional and subregional fisheries management organizations or arrangements, and relevant nongovernmental organizations and invite them to provide him with information relevant to the implementation of the Resolution.

The Resolution requests the Secretary-General to submit to the General Assembly at its 62nd session a report on *Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments*, taking into account information provided by States and other entities on the relevant paragraphs in Resolution 60/L.23. In addition,

a sub-item with the same title as Resolution 60/L.23 will be placed under the item “Oceans and the law of the sea” on the agenda of the sixty-first session of the UN General Assembly in 2006.

b. UN Driftnet Reports

Since December 1992, the United States has been instrumental in ensuring that implementation of the high seas driftnet moratorium remains a priority of the UNGA. The United States will continue to support UNGA resolutions and decisions requesting that the UN Secretary-General submit to the General Assembly biennial reports on developments relevant to the implementation of the UN driftnet moratorium.

UNGA Resolution 59/25 adopted in November 2004, requested that the Secretary-General submit to the General Assembly at its sixtieth session in 2005 a report relating to the implementation of the resolution entitled *Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and related instruments*. The relevant portions (Section IV.E. paragraphs 112.-115.) of the Secretary-General’s 2005 report are provided in Attachment 3.

B. Support for the Wellington Convention

The United States took no specific actions in support of the Wellington Convention in 2005. The Wellington Convention, formally known as the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, prohibits driftnet fishing within the Convention Area which includes both EEZs of South Pacific countries and territories, and adjacent high seas areas. Details on U.S. actions taken prior to 2005 are provided in previous driftnet reports to the Congress. No large-scale pelagic driftnet fishing activities have been reported in the Wellington Convention area since 1991.

III. EVALUATION OF THE IMPACTS ON LIVING MARINE RESOURCES

A detailed evaluation of the impacts of large-scale high seas driftnet fishing on salmonids, marine mammals and birds, tuna and non-salmonid fishes, and marine turtles was provided in the 1992 report to the Congress. The evaluation was based on catch data from the 1989-1992 scientific driftnet monitoring programs with Japan, Taiwan and the Republic of Korea. However, an enormous amount of North Pacific ecosystem data resulted from the driftnet scientific monitoring programs. Analyses and interpretation of these data continued through 1994 and descriptions of such research were included in the 1993 and 1994 driftnet reports. With the advent of the UN moratorium on large-scale high seas driftnet fishing, legal sources for scientific data on this type of fishing gear disappeared. Only Japan continues to conduct research on the distribution and abundance and status of stocks of salmonids and non-salmonid pelagic fishes in the North Pacific Ocean using small scale driftnets (driftnets less than 2.5 km).

IV. LIST AND DESCRIPTION OF ANY NEW FISHERIES DEVELOPED BY NATIONS THAT CONDUCT, OR AUTHORIZE THEIR NATIONALS TO CONDUCT, LARGE-SCALE DRIFTNET FISHING BEYOND THE EEZ OF ANY NATION

We are not aware of any new fisheries that have been developed by nations that conduct, or authorize their nationals to conduct, large-scale pelagic driftnet fishing on the high seas beyond the EEZ of any nation.

V. LIST OF NATIONS THAT CONDUCT, OR AUTHORIZE THEIR NATIONALS TO CONDUCT, LARGE-SCALE DRIFTNET FISHING BEYOND THE EEZ OF ANY NATION IN A MANNER THAT DIMINISHES THE EFFECTIVENESS OF OR IS INCONSISTENT WITH ANY INTERNATIONAL AGREEMENT GOVERNING LARGE-SCALE DRIFTNET FISHING TO WHICH THE UNITED STATES IS A PARTY OR OTHERWISE SUBSCRIBES.

The Secretary has not identified, pursuant to the High Seas Driftnet Fisheries Enforcement Act, any other nations that conduct, or authorize their nationals to conduct, large-scale driftnet fishing beyond the EEZ of any nation in a manner that diminishes the effectiveness of, or is inconsistent with, any international agreement governing large-scale driftnet fishing to which the United States is a party or otherwise subscribes.

Italy: As detailed in Section II.A.3.b. of this report, the Secretary of Commerce identified Italy on 19 March 1999 pursuant to the High Seas Driftnet Fisheries Enforcement Act as a nation that conducts, or authorizes its nationals to conduct, large-scale pelagic driftnet fishing on the high seas beyond the EEZ of any nation. On 15 July 1999, the United States and Italy formally agreed on measures to effect the immediate termination of Italian large-scale high seas driftnet fishing. For this reason, the United States did not impose trade sanctions on Italian fish, fish products and sport fishing equipment pursuant to the Act. However, the United States has continued to apply the provision of the High Seas Driftnet Fisheries Enforcement Act that denies entry of Italian large-scale driftnet vessels to U.S. ports and navigable waters. Since 29 May 1996, it has also required Italy to provide documentary evidence pursuant to the Dolphin Protection Consumer Information Act (16 U.S.C. 1371(a)(2)(E)) that certain fish and fish products it wishes to export to the United States are not harvested with large-scale driftnets on the high seas.

The U.S. Government remains concerned by reports from conservation organizations in 2004 and 2005 that some Italian vessels and nationals may still be engaged in large-scale high seas driftnet fishing. The United States is working diligently with the Government of Italy, the EC, and ICCAT to address this situation. The United States believes that the efforts now in progress need some time to come to fruition and that the ultimate result of these efforts will be the complete elimination of any residual large-scale high seas driftnet fishing by Italian vessels and

nationals that may still be occurring in the Mediterranean Sea. The United States will continue to apply the High Seas Driftnet Fisheries Enforcement Act provisions described above to Italy until such time that it is satisfied that all driftnet fishing has ceased.

Morocco: The United States did not receive any confirmed sightings of Moroccan large-scale driftnet vessels operating on the high seas of the Mediterranean in 2005. However, Morocco has verified that it has a driftnet fleet and that it intends to phase out this fleet over a 4-year period. The United States has offered to assist Morocco in implementing this program and in 2005 identified funding for this purpose. Representatives from NMFS met with Moroccan officials in September 2005 to discuss what form this assistance might take. (More complete details are provided in II.A.1.b of this report.)

PRC: The United States remains concerned that PRC fishing vessels were potentially engaged in large-scale high seas squid or tuna driftnet fishing in the North Pacific Ocean in 2005. The names of some of the identified vessels suggest that they may be associated with the PRC. The United States is working with the PRC to investigate these vessels.

The United States continues to be encouraged with the enforcement actions taken by the PRC Government in 2005--particularly the commitment of one FLEC vessel to patrol the high seas driftnet threat area for over 40 days in summer 2005 to deter illegal driftnet fishing activity. The U.S. Government will continue to work with the PRC Government to improve PRC enforcement efforts and presence in the North Pacific. The U.S.-PRC shiprider agreement pursuant to the *Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China on Effective Cooperation and Implementation of United Nations General Assembly Resolution 46/215 of December 20, 1991* continues to function successfully and is in force until 31 December 2009. The United States will take into consideration the excellent enforcement cooperation received from the PRC Government in determining any actions to take pursuant to the High Seas Driftnet Fisheries Enforcement Act.

meeting and annually thereafter. In consideration of the results of such review, the Commission shall, if appropriate, request the flag Contracting Party of vessels on the GFCM record to take further action to enhance compliance by those vessels to GFCM conservation and management measures.

7. The Contracting Parties shall take measures, under their applicable legislation, to prohibit the fishing for, the retaining on board, the transshipment and landing of species in the GFCM Area by the vessels larger than 15 metres in length overall which are not entered into the GFCM record.
8. Each Contracting Party shall notify the GFCM Executive Secretary of any factual information showing that there are reasonable grounds for suspecting vessels not on the GFCM record to be engaged in fishing for and/or transshipment in the GFCM Area.
 - a) If a vessel mentioned in paragraph 8 is flying the flag of a Contracting Party, the Executive Secretary shall request that the Contracting Party take measures necessary to prevent the vessel from fishing in the GFCM Area.
 - b) If the flag of a vessel mentioned in paragraph 8 cannot be determined or is of a non-Contracting Party, the Executive Secretary shall compile such information for future consideration by the Commission.
10. The Commission and the Contracting Parties concerned shall communicate with each other, and make the best effort with FAO and other relevant regional fishery management bodies to develop and implement appropriate measures, where feasible, including the establishment of records of a similar nature in a timely manner so as to avoid adverse effects upon fisheries resources in other oceans. Such adverse effects might consist of excessive fishing pressure resulting from a shift of the IUU vessels from the Mediterranean to other seas or oceans.

RECOMMENDATION GFCM/2005/3

CONCERNING SELECTED ICCAT RECOMMENDATIONS

The General Fisheries Commission for the Mediterranean (GFCM),

RECALLING that the objectives of the Agreement establishing the General Fisheries Commission for the Mediterranean are to promote the development, conservation, rational management and proper utilization of living marine resources,

ADOPTS, in conformity with the provisions of paragraph 1 (h) of Article III and Article V of the GFCM Agreement the following Recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT):

GFCM/2005/3 (A)

RECOMMENDATION [03-04] BY ICCAT RELATING TO MEDITERRANEAN SWORDFISH

NOTING that the Commission's Standing Committee on Research and Statistics (SCRS) in its May 2003 Mediterranean Swordfish assessment has indicated the presence of a stable recruitment pattern and that the current exploitation pattern and level of exploitation are sustainable, as long as the stock does not decline;

RECOGNIZING that the SCRS recommended that the current levels of exploitation not be exceeded, under the current exploitation patterns;

CONSIDERING that the SCRS also indicated that the percentage of juveniles in the catches is relatively high and a reduction in their catches would improve the yield and spawning biomass per recruit.

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT) RECOMMENDS THAT:

1. In order to protect small swordfish, Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities shall take the necessary measures to reduce the mortality of juvenile swordfish in the entire Mediterranean.
2. Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities shall take the necessary technical measures for their longline fisheries in order to ensure compliance with the objective.
3. Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities shall prohibit the use of driftnets for fisheries of large pelagics in the Mediterranean.

GFCM/2005/3 (B)

RECOMMENDATION [04-05] BY ICCAT CONCERNING THE WESTERN ATLANTIC BLUEFIN TUNA REBUILDING PROGRAM AND THE CONSERVATION AND MANAGEMENT MEASURES FOR BLUEFIN TUNA IN THE EASTERN ATLANTIC AND MEDITERRANEAN

NOTING that the 2002 amendment to the 1998 *Recommendation by ICCAT to Establish a Rebuilding Program for Western Atlantic Bluefin Tuna* [Rec. 98-07] established a quota sharing arrangement for the United States, Japan, and Canada only through 2004,

TAKING INTO ACCOUNT that the next assessment of Atlantic bluefin tuna was scheduled for 2004 in the 2002 *Recommendation by ICCAT Concerning a Multi-year Conservation and Management Plan for Bluefin in the East Atlantic and Mediterranean* [Rec. 02-08],

CONSIDERING the on-going work of the Working Group to Develop Integrated and Coordinated Atlantic Bluefin Tuna Management Strategies,

DESIRING to align stock management discussions with new scientific advice and, in the meantime, to extend for one year existing management measures which support the western Atlantic bluefin tuna rebuilding program,

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT) RECOMMENDS THAT:

1. The provisions of the *Recommendation by ICCAT Concerning Conservation of Western Atlantic Bluefin Tuna* [Rec. 02-07], which amend the *Recommendation by ICCAT to Establish a Rebuilding Program for Western Atlantic Bluefin Tuna* [Rec. 98-07], be extended through 2006.
2. All other operative paragraphs of Recommendation 98-07 as amended by Recommendation 02-07 remain unchanged.
3. The Third Meeting of the Working Group to Develop Integrated and Coordinated Atlantic Bluefin Tuna Management Strategies take place in April 2005 in Japan. Its primary objective will be to develop a range of future alternative management approaches which will be submitted to the Standing Committee on Research and Statistics (SCRS) for its opinion. The Commission will review

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Oceans and the law of the sea: sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments

Austria, Belize, Brazil, Canada, Cyprus, Czech Republic, Denmark, Finland, Germany, Iceland, Ireland, Malta, Monaco, Namibia, Netherlands, New Zealand, Norway, Palau, Philippines, Poland, Portugal, Spain, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments

The General Assembly,

Reaffirming its resolutions 46/215 of 20 December 1991, 49/116 and 49/118 of 19 December 1994, 50/25 of 5 December 1995 and 57/142 of 12 December 2002, as well as other resolutions on large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas, fisheries by-catch and discards, and other developments, and its resolutions 56/13 of 28 November 2001 and 57/143 of 12 December 2002 on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks ("the Agreement"),¹ 58/14 of 24 November 2003 and 59/25 of 17 November 2004 on sustainable fisheries, including through the 1995

¹ *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. I; see also A/CONF.164/37.

Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea (“the Convention”),² and bearing in mind the relationship between the Convention and the Agreement,

Recognizing that, in accordance with the Convention, the Agreement sets forth provisions concerning the conservation and management of straddling fish stocks and highly migratory fish stocks, including provisions on compliance and enforcement by the flag State and subregional and regional cooperation in enforcement, binding dispute settlement and the rights and obligations of States in authorizing the use of vessels flying their flags for fishing on the high seas, and specific provisions to address the requirements of developing States in relation to conservation and management of straddling fish stocks and highly migratory fish stocks and development of fisheries for such stocks,

Noting that the Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization of the United Nations (“the Code”)³ and its associated international plans of action set out principles and global standards of behaviour for responsible practices for conservation of fisheries resources and management and development of fisheries,

Noting with concern that effective management of marine capture fisheries has been made difficult in some areas by unreliable information and data caused by unreported and misreported fish catch and fishing effort and the contribution this lack of data makes to continued overfishing in some areas,

Noting with satisfaction the recently adopted Food and Agriculture Organization of the United Nations Strategy for Improving Information on Status and Trends of Capture Fisheries,⁴ and recognizing that the long-term improvement of knowledge and understanding of fishery status and trends is a fundamental basis for fisheries policy and management for implementing the Code,

Recognizing the need to implement, as a matter of priority, the Plan of Implementation of the World Summit on Sustainable Development (“Johannesburg Plan of Implementation”),⁵ in relation to achieving sustainable fisheries, including the objective to maintain or restore stocks to levels that can produce the maximum

² See *The Law of the Sea: Official Texts of the United Nations Convention on the Law of the Sea of 10 December 1982 and of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 with Index and Excerpts from the Final Act of the Third United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. E.97.V.10).

³ *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. III.

⁴ Food and Agriculture Organization of the United Nations, *Report of the twenty-fifth session of the Committee on Fisheries, Rome, 24-28 February 2003*, FAO Fisheries Report No. 702 (FIPL/R702(En)), appendix H.

⁵ *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex.

sustainable yield with the aim of achieving these goals for depleted stocks on an urgent basis and where possible not later than 2015,

Recognizing also the significant contribution of sustainable fisheries to food security, income and wealth for present and future generations,

Deploring the fact that fish stocks, including straddling fish stocks and highly migratory fish stocks, in many parts of the world are overfished or subject to sparsely regulated and heavy fishing efforts, as a result of, inter alia, unauthorized fishing, inadequate flag State control and enforcement, including monitoring, control and surveillance measures, inadequate regulatory measures, harmful fisheries subsidies and overcapacity,

Concerned that illegal, unreported and unregulated fishing threatens seriously to deplete certain fish stocks and to significantly damage marine habitats and ecosystems, to the detriment of sustainable fisheries as well as the food security and the economies of many States, particularly developing States,

Welcoming the outcomes of the twenty-sixth session of the Food and Agriculture Organization of the United Nations Committee on Fisheries, held from 5 to 11 March 2005,

Welcoming also the Rome Ministerial Declaration on Illegal, Unreported and Unregulated Fishing adopted by the Ministerial Meeting on Fisheries of the Food and Agriculture Organization of the United Nations on 12 March 2005,⁶ which renewed the resolve of the international community to prevent, deter and eliminate illegal, unreported and unregulated fishing,

Welcoming further the 2005 Rome Declaration on Fisheries and the Tsunami adopted by the Ministerial Meeting on 12 March 2005, which addressed the issue of rehabilitation in relation to the tsunami disaster,

Noting the efforts of the International Labour Organization in relation to work in the fishing sector,

Recognizing that the interrelationship between ocean activities, such as shipping and fishing, and environmental issues needs further consideration,

Concerned that marine pollution from all sources, including vessels and in particular land-based sources, constitutes a serious threat to human health and safety, endangers fish stocks, marine biodiversity and marine habitats and has significant costs to local and national economies,

Recognizing that marine debris is a global transboundary pollution problem and that due to the many different types and sources of marine debris different approaches to their prevention and removal are necessary,

Recognizing also the need for appropriate measures to address lost or abandoned gear, including catches by derelict fishing gear, which adversely affect inter alia fish stocks and habitats,

Noting that the contribution of sustainable aquaculture to global fish supplies continues to respond to opportunities in developing countries to enhance local food

⁶ The 2005 Rome Declaration on Illegal, Unreported, and Unregulated Fishing of 12 March 2005, adopted by the Ministerial Meeting on Fisheries of the Food and Agriculture Organization of the United Nations, Rome, 12 March 2005.

security and poverty alleviation, and together with efforts of other aquaculture producing countries will make a significant contribution to meeting future demands in fish consumption, bearing in mind article 9 of the Code,

Calling attention to the circumstances affecting fisheries in many developing States, in particular African States and small island developing States, and recognizing the urgent need for capacity-building, including transfer of marine technology, to assist such States in meeting their obligations and exercising their rights under international instruments, in order to realize the benefits from fisheries resources,

Noting the obligation of all States, pursuant to the provisions of the Convention, to cooperate in the conservation and management of straddling fish stocks and highly migratory fish stocks, and recognizing the importance of coordination and cooperation at the global, regional, subregional as well as national levels in the areas, inter alia, of data collection, information-sharing, capacity-building and training for the conservation, management and sustainable development of marine living resources,

Recognizing the duty provided in the Convention, the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (“the Compliance Agreement”),⁷ the Agreement and the Code for flag States to exercise effective control over fishing vessels flying their flag and vessels flying their flag which provide support to such vessels, and to ensure that the activities of such vessels do not undermine the effectiveness of conservation and management measures taken in accordance with international law and adopted at the national, subregional, regional or global levels,

Recognizing also the urgent need for action at all levels to ensure the long-term sustainable use and management of fisheries resources through the wide application of a precautionary approach, and through appropriate measures to reduce waste, discards and other factors, which adversely affect fish stocks,

Recognizing further the economic and cultural importance of sharks in many countries, the biological importance of sharks in the marine ecosystem, the vulnerability of certain shark species to over-exploitation and the need for measures to promote the long-term sustainability of shark populations and fisheries, and the relevance of the 1999 Food and Agriculture Organization of the United Nations International Plan of Action for the Conservation and Management of Sharks in providing development guidance of such measures,

Reaffirming its support for the initiative of the Food and Agriculture Organization of the United Nations and relevant regional and subregional fisheries management organizations and arrangements on the conservation and management of sharks, while noting with concern that only a small number of countries have implemented the 1999 Food and Agriculture Organization of the United Nations International Plan of Action for the Conservation and Management of Sharks,

Welcoming the Ministerial Declaration of the “Conference on the Governance of High Seas Fisheries and the United Nations Fish Agreement — Moving from Words to Action”, held in St. John’s Canada, from 1 to 5 May 2005, acknowledging

⁷ *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. II.

that it is an initiative to improve high seas fisheries governance, including effective implementation of the Agreement,

Noting with satisfaction the outcomes of the fourth round of informal consultations of States parties to the Agreement, held in New York from 31 May to 3 June 2005,

Taking note with appreciation of the report of the Secretary-General on "Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments",⁸ in particular its useful role in gathering and disseminating information on or relating to the sustainable development of the world's marine living resources,

Expressing concern that the practice of large-scale pelagic drift-net fishing remains a threat to marine living resources, although the incidence of this practice has continued to be low in most regions of the world's oceans and seas,

Emphasizing that efforts should be made to ensure that the implementation of resolution 46/215 in some parts of the world does not result in the transfer to other parts of the world of drift-nets that contravene the resolution,

Expressing concern over reports of continued losses of seabirds, particularly albatrosses and petrels, as well as other marine species, including sharks, fin-fish species and marine turtles, as a result of incidental mortality in fishing operations, particularly longline fishing, and other activities, while recognizing considerable efforts to reduce by-catch in longline fishing through various regional fisheries management organizations and arrangements,

Recognizing the endorsement of the Guidelines to Reduce Sea Turtle Mortality in Fishing Operations by the Food and Agriculture Organization of the United Nations Committee on Fisheries at its twenty-sixth session, held from 5 to 11 March 2005,

Welcoming the fact that a growing number of States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, as well as regional and subregional fisheries management organizations and arrangements, have taken measures, as appropriate, towards the implementation of the provisions of the Agreement.

I. Achieving sustainable fisheries

1. *Reaffirms* the importance it attaches to the long-term conservation, management and sustainable use of the marine living resources of the world's oceans and seas and the obligations of States to cooperate to this end, in accordance with international law, as reflected in the relevant provisions of the Convention, in particular the provisions on cooperation set out in Part V and Part VII, section 2, of the Convention, and where applicable, the Agreement;

2. *Emphasizes* the obligations of flag States to discharge their responsibilities, in accordance with the Convention and the Agreement, to ensure

⁸ A/60/189.

compliance by vessels flying their flag with the conservation and management measures adopted and in force with respect to fisheries resources on the high seas;

3. *Calls upon* all States that have not done so, in order to achieve the goal of universal participation, to become parties to the Convention, which sets out the legal framework within which all activities in the oceans and seas must be carried out, taking into account the relationship between the Convention and the Agreement;

4. *Calls upon* all States, directly or through regional fisheries management organizations and arrangements, to apply, in accordance with international law, the precautionary approach and an ecosystem approach widely to the conservation, management and exploitation of fish stocks, including straddling fish stocks and highly migratory fish stocks, and also calls upon States parties to the Agreement to implement fully the provisions of article 6 of the Agreement as a matter of priority;

5. *Welcomes and encourages* the work of the Food and Agriculture Organization of the United Nations and its Committee on Fisheries, in particular the recent call to effectively implement the various instruments already developed to ensure responsible fisheries;

6. *Urges* States to eliminate barriers to trade, including tariff peaks, high tariffs and non-tariff barriers and measures which are not consistent with their obligations under the World Trade Organization agreements, taking into account the importance of the trade of fisheries products, particularly for developing countries;

7. *Welcomes* the 2005 Food and Agriculture Organization of the United Nations International Guidelines for the Ecolabelling of Fish and Fishery Products from Marine Capture Fisheries, acknowledges the role of certification and ecolabelling schemes, which are to be consistent with international law, including relevant World Trade Organization agreements, and notes ongoing discussions in the World Trade Organization on such schemes;

8. *Urges* States and relevant international and national organizations to provide for participation of small-scale fishery stakeholders in related policy development and fisheries management strategies in order to achieve long term sustainability for such fisheries, consistent with the duty to ensure the proper conservation and management of fisheries resources;

II. Implementation of the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

9. *Calls upon* all States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, that have not done so to ratify or accede to the Agreement and in the interim to consider applying it provisionally;

10. *Calls upon* States parties to the Agreement to harmonize, as a matter of priority, their national legislation with the provisions of the Agreement, and to ensure that the provisions of the Agreement are effectively implemented into regional fisheries management organizations and arrangements of which they are a member;

11. *Emphasizes* the importance of those provisions of the Agreement relating to bilateral, regional and subregional cooperation in enforcement, and urges continued efforts in this regard;

12. *Encourages* States, as appropriate, to recognize that the general principles of the Agreement should also apply to discrete fish stocks in the high seas;

13. *Calls upon* all States to ensure that their vessels comply with the conservation and management measures that have been adopted by subregional and regional fisheries management organizations and arrangements in accordance with relevant provisions of the Convention and of the Agreement;

14. *Urges* States parties to the Agreement, in accordance with article 21, paragraph 4, thereof to inform, either directly or through the relevant regional or subregional fisheries management organization or arrangement, all States whose vessels fish on the high seas in the same region or subregion of the form of identification issued by those States parties to officials duly authorized to carry out boarding and inspection functions in accordance with articles 21 and 22 of the Agreement;

15. *Also urges* States parties to the Agreement, in accordance with article 21, paragraph 4, to designate an appropriate authority to receive notifications pursuant to article 21 and to give due publicity to such designation through the relevant subregional or regional fisheries management organization or arrangement;

16. *Invites* States and international financial institutions and organizations of the United Nations system to provide assistance according to Part VII of the Agreement, including, if appropriate, the development of special financial mechanisms or instruments to assist developing States, in particular the least developed among them and small island developing States, to enable them to develop their national capacity to exploit fishery resources, including developing their domestically flagged fishing fleet, value-added processing and the expansion of their economic base in the fishing industry, consistent with the duty to ensure the proper conservation and management of fisheries resources;

17. *Notes with satisfaction* that the Assistance Fund under Part VII of the Agreement has begun to operate and consider applications for assistance by developing States parties to the Agreement, and encourages States, intergovernmental organizations, international financial institutions, national institutions, non-governmental organizations and natural and juridical persons to make voluntary financial contributions to the Fund;

18. *Welcomes* the inaugural meeting at Windhoek, Namibia, from 28 to 30 September 2005 of the Scientific Committee of the South-East Atlantic Fisheries Organization and its Commission's subsequent adoption of new conservation measures for the resources that fall under its responsibility within the area of the Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean, and urges signatory States and other States whose vessels fish in that Convention area for fishery resources covered by that Convention to become parties to that Convention as a matter of priority and, in the interim, apply it and the measures adopted thereunder provisionally, to ensure that vessels entitled to fly their flags apply such measures;

19. *Welcomes also* the inaugural meeting in Pohnpei, Federated States of Micronesia, from 9 to 10 December 2004 of the Western and Central Pacific Fisheries Commission, and further encourages relevant States to become parties to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean and, in the interim, to apply that Convention and the measures adopted thereunder to vessels entitled to fly their flags;

20. *Reaffirms* paragraph 16 of resolution 59/25 concerning the convening by the Secretary-General, pursuant to article 36 of the Agreement, of a review conference ("the review conference"), to be held in New York from 22 to 26 May 2006;

21. *Takes note* of the report of the fourth round of informal consultations of States parties to the Agreement, requests that the Secretary-General, in preparing, in cooperation with the Food and Agriculture Organization of the United Nations, the comprehensive report referred to in paragraph 17 of resolution 59/25, take into account the specific guidance proposed by the fourth round of informal consultations of States parties to the Agreement regarding the comprehensive report, and also requests that an advance unedited version of such report be made available in accordance with past practice via the Division for Ocean Affairs and the Law of the Sea website as of 16 January 2006;

22. *Invites* States parties, as well as States and entities entitled to become parties, subregional and regional fisheries management organizations and arrangements, and other intergovernmental and non-governmental organizations, to submit information and views to the review conference on matters relevant to the mandate of the review conference and which would inform its work;

23. *Recalls* paragraph 6 of its resolution 56/13, and requests the Secretary-General to convene in March 2006 a fifth round of informal consultations of States Parties to the Agreement, to serve as preparation for the review conference;

24. *Requests* the Secretary-General to prepare a draft provisional agenda and draft rules of procedure for the review conference, and circulate them at the same time as the provisional agenda, proposed by the fourth round of informal consultations of States parties to the Agreement, for the fifth round of informal consultations of States parties to the Agreement, 60 days in advance of these consultations;

25. *Requests also* the Secretary-General to invite States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, which are not parties to the Agreement, to participate fully in the fifth round of informal consultations of States parties to the Agreement on an equal footing with States parties to the Agreement, except without voting rights, and reaffirms that, in accordance with past practice, every effort will be made to adopt recommendations on the basis of consensus;

26. *Requests further* the Secretary-General to invite the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Commission on Sustainable Development, the World Bank, the Global Environment Facility and other relevant international financial institutions, subregional and regional fisheries management organizations and arrangements, other fisheries bodies, other relevant inter-

governmental bodies and relevant non-governmental organizations to attend the fifth round of informal consultations of States parties to the Agreement as observers;

27. *Encourages* wide participation in accordance with article 36 of the Agreement in the review conference and calls upon those States that are able to do so to become parties to the Agreement prior to the review conference;

III. Related fisheries instruments

28. *Emphasizes* the importance of the effective implementation of the provisions of the Compliance Agreement, and urges continued efforts in this regard;

29. *Calls upon* all States and other entities referred to in article X, paragraph 1, of the Compliance Agreement that have not yet become parties to that Agreement to do so as a matter of priority and, in the interim, to consider applying it provisionally;

30. *Urges* States and subregional and regional fisheries management organizations and arrangements to implement and promote the application of the Code within their areas of competence;

31. *Also urges* States to develop and implement, as a matter of priority, national and, as appropriate, regional plans of action to put into effect the international plans of action of the Food and Agriculture Organization of the United Nations;

32. *Welcomes* the adoption of the Code of Safety for Fishermen and Fishing Vessels as revised by the Food and Agriculture Organization of the United Nations, the International Labour Organization and the International Maritime Organization and encourages its effective application, and urges States to become parties to the 1993 Protocol to the Torremolinos International Convention for the Safety of Fishing Vessels;

IV. Illegal, unreported and unregulated fishing

33. *Emphasizes once again its serious concern* that illegal, unreported and unregulated fishing remains one of the greatest threats to marine ecosystems and continues to have serious and major implications for the conservation and management of ocean resources, and renews its call upon States to comply fully with all existing obligations and to combat such fishing and urgently to take all necessary steps to implement the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the Food and Agriculture Organization of the United Nations;

34. *Calls upon* States not to permit vessels flying their flag to engage in fishing on the high seas or in areas under the national jurisdiction of other States, unless duly authorized by the authorities of the States concerned and in accordance with the conditions set out in the authorization, without having effective control over their activities, and to take specific measures, including deterring the reflagging of vessels by their nationals, in accordance with the relevant provisions of the Convention, the Agreement and the Compliance Agreement, to control fishing operations by vessels flying their flag;

35. *Affirms* the need to strengthen, where necessary, the international legal framework for intergovernmental cooperation, in particular at the regional and

subregional levels, in the management of fish stocks and in combating illegal, unreported and unregulated fishing, in a manner consistent with international law, and for States and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement to collaborate in efforts to address these types of fishing activities, including, inter alia, the development and implementation of vessel monitoring systems and the listing of vessels in order to prevent illegal, unreported, and unregulated fishing activities and, where appropriate and consistent with international law, trade monitoring schemes, including to collect global catch data, through subregional and regional fisheries management organizations and arrangements;

36. *Calls upon* flag and port States to take all measures consistent with international law necessary to prevent the operation of substandard vessels and illegal, unreported and unregulated fishing activities;

37. *Urges* States to exercise effective control over their nationals and vessels flying their flag in order to prevent and deter them from engaging in illegal, unreported and unregulated fishing activities;

38. *Recalls* the request to the Secretary-General to report to the General Assembly at its sixty-first session on the study undertaken by the International Maritime Organization, in cooperation with other competent international organizations, following the invitation extended to it in resolution 58/14 and resolution 58/240 of 23 December 2003, to examine and clarify the role of the “genuine link” in relation to the duty of flag States to exercise effective control over ships flying their flag, including fishing vessels, and the potential consequences of non-compliance with the duties and obligations of flag States prescribed in the relevant international instruments;

39. *Reaffirms* the appeal made by the Ministers of Fisheries of the Food and Agriculture Organization of the United Nations in their Declaration on Illegal, Unreported and Unregulated Fishing, adopted at the Ministerial Meeting on Fisheries of the Food and Agriculture Organization of the United Nations, held on 12 March 2005, including for further international action to eliminate illegal, unreported and unregulated fishing by vessels flying “flags of convenience” as well as to require that a “genuine link” be established between States and fishing vessels flying their flags, and calls upon States to implement the Declaration as a matter of priority;

40. *Requests* States and relevant international bodies to develop in accordance with international law more effective measures to trace fish and fishery products to enable importing States to identify fish or fisheries products caught in a manner that undermines international conservation and management measures agreed in accordance with international law, and at the same time to recognize the importance of market access, in accordance with provisions 11.2.4, 11.2.5 and 11.2.6 of the Code, for fish and fisheries products caught in a manner that is in conformity with such international measures;

41. *Encourages* further work by competent international organizations, including the Food and Agriculture Organization of the United Nations and subregional and regional fisheries management organizations and arrangements, to develop guidelines on flag State control of fishing vessels;

42. *Recognizes* the need for enhanced port State controls to combat illegal, unreported and unregulated fishing, urges States to cooperate, in particular at the regional level and through regional and subregional fisheries management organizations and arrangements, and encourages States to apply the model scheme on port State measures endorsed by the Food and Agriculture Organization of the United Nations Committee on Fisheries at its twenty-sixth session in March 2005 at the national and regional levels, promote its application through regional fisheries management organizations and arrangements and bodies and consider, when appropriate, the possibility of developing a legally binding instrument;

43. *Calls upon* all States to ensure that vessels flying their flag do not engage in trans-shipments of fish caught by fishing vessels engaged in illegal, unreported and unregulated fishing; and, individually or through regional fisheries management organizations or arrangements, to develop more effective enforcement and compliance measures to prevent and suppress such trans-shipments in accordance with international law;

44. *Urges* States, individually and through relevant regional fisheries management organizations and arrangements, to establish mandatory vessel monitoring, control and surveillance systems for fishing vessels, including the sharing of information on fisheries enforcement matters, to join the existing voluntary International Monitoring, Control and Surveillance Network for Fisheries-Related Activities and to consider the possibility, when appropriate, of transforming the Network in accordance with international law into an international unit with dedicated resources that can assist fisheries enforcement agencies;

45. *Encourages and supports* the development of a comprehensive global record within the Food and Agriculture Organization of the United Nations of fishing vessels, including refrigerated transport vessels and supply vessels, that incorporates available information on beneficial ownership, subject to confidentiality requirements in accordance with national law, and urges flag States to require that all their large-scale fishing vessels operating on the high seas be fitted with vessel monitoring systems no later than December 2008, or earlier if so decided by the flag State or any relevant regional fisheries management organization or arrangements, as called for in the Food and Agriculture Organization of the United Nations Ministerial Declaration on Illegal, Unreported and Unregulated Fishing adopted on 12 March 2005;

46. *Urges* States, individually and through regional fisheries management organizations and arrangements, to adopt and implement internationally agreed market-related measures in accordance with international law, including principles, rights and obligations established in World Trade Organization agreements, as called for in the Food and Agriculture Organization of the United Nations International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;

V. Fishing overcapacity

47. *Calls upon* States and relevant regional and subregional fisheries management organizations and arrangements, as a matter of priority, to take effective measures to improve the management of fishing capacity and to implement the Food and Agriculture Organization of the United Nations International Plan of Action for the Management of Fishing Capacity, taking into account the need,

through these actions, to avoid the transfer of fishing capacity to other fisheries or areas including, but not limited to, those areas where fish stocks are overexploited or in a depleted condition;

48. *Reaffirms* the Rome Declaration on Fisheries and the Tsunami adopted by the Ministerial Meeting on Fisheries of the Food and Agriculture Organization of the United Nations, which emphasized, inter alia, the need for fisheries and aquaculture rehabilitation in the affected areas to be in line with the principles of the Code of Conduct for Responsible Fisheries and stressed that rehabilitation efforts, including transfer of vessels, must proceed under the leadership and control of the affected nations and must ensure that the fishing capacity that is being rebuilt is commensurate with the productive capacity of the fisheries resources and their sustainable utilization;

49. *Urges* States to eliminate subsidies that contribute to illegal, unreported and unregulated fishing and to fishing overcapacity, while completing the efforts undertaken at the World Trade Organization in accordance with the Doha Declaration to clarify and improve its disciplines on fisheries subsidies, taking into account the importance of this sector, including small-scale and artisanal fisheries and aquaculture, to developing countries;

VI. Large-scale pelagic drift-net fishing

50. *Reaffirms* the importance it attaches to continued compliance with its resolution 46/215 and other subsequent resolutions on large-scale pelagic drift-net fishing, and urges States and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement to enforce fully the measures recommended in those resolutions;

VII. Fisheries by-catch and discards

51. *Urges* States, regional and subregional fisheries management organizations and arrangements and other relevant international organizations that have not done so to take action to reduce or eliminate by-catch, catch by lost or abandoned gear, fish discards and post-harvest losses, including juvenile fish, consistent with international law and relevant international instruments, including the Code, and in particular to consider measures including, as appropriate, technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved for selected fisheries, particularly artisanal fisheries, the establishment of mechanisms for communicating information on areas of high concentration of juvenile fish, taking into account the importance of ensuring confidentiality of such information, and support for studies and research that will reduce or eliminate by-catch of juvenile fish;

52. *Encourages* States and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement to give due consideration to participation, as appropriate, in regional and subregional instruments and organizations with mandates to conserve non-target species taken incidentally in fishing operations;

53. *Requests* States and regional fisheries management organizations and arrangements to urgently implement, as appropriate, the measures recommended in the Food and Agriculture Organization of the United Nations Guidelines to Reduce

Sea Turtle Mortality in Fishing Operations and the International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries in order to prevent the decline of sea turtles and seabird populations by reducing by-catch and increasing post-release survival in their fisheries, including through research and development of gear and bait alternatives, promoting the use of available by-catch mitigation technology, and promotion and strengthening of data collection programmes to obtain standardized information to develop reliable estimates of the by-catch of those species;

VIII. Subregional and regional cooperation

54. *Urges* coastal States and States fishing on the high seas, in accordance with the Convention and the Agreement, to pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, to ensure the effective conservation and management of such stocks;

55. *Urges* States fishing for straddling fish stocks and highly migratory fish stocks on the high seas, and relevant coastal States, where a subregional or regional fisheries management organization or arrangement has the competence to establish conservation and management measures for such stocks, to give effect to their duty to cooperate by becoming members of such an organization or participants in such an arrangement, or by agreeing to apply the conservation and management measures established by such an organization or arrangement;

56. *Invites*, in this regard, subregional and regional fisheries management organizations and arrangements to ensure that all States having a real interest in the fisheries concerned may become members of such organizations or participants in such arrangements, in accordance with the Convention and the Agreement;

57. *Encourages* relevant coastal States and States fishing on the high seas for a straddling fish stock or a highly migratory fish stock, where there is no subregional or regional fisheries management organization or arrangement to establish conservation and management measures for such stock, to cooperate to establish such an organization or enter into another appropriate arrangement to ensure the conservation and management of such stocks, and to participate in the work of the organization or arrangement;

58. *Welcomes and urges* further efforts by regional fisheries management organizations and arrangements, as a matter of priority, to strengthen and modernize their mandates to include an ecosystem approach to fisheries management and biodiversity considerations, where those aspects are lacking, to ensure that they effectively contribute to long term conservation and management of marine living resources;

59. *Urges* regional fisheries management organizations and arrangements to ensure that their decision-making processes rely on the best scientific information available, incorporate the precautionary approach, develop criteria for allocation which reflects, where appropriate, the relevant provisions of the Agreement, and strengthen integration, coordination and cooperation with other relevant fisheries organizations, regional seas arrangements and other relevant international organizations;

60. *Encourages* States through their participation in regional fisheries management organizations and arrangements to initiate processes for their performance review, and welcomes the work of the Food and Agriculture Organization of the United Nations in the development of general objective criteria for such reviews;

61. *Calls upon* States, individually and through regional fisheries management organizations or arrangements, to strengthen or establish, consistent with national and international law, positive or negative lists of vessels fishing within the areas covered by relevant regional fisheries management organizations and arrangements in order to verify compliance with conservation and management measures and identify products from illegal, unreported and unregulated catches, including, where possible, establishing tracking and verification mechanisms to do so, and encourages improved coordination among all parties and regional fisheries management organizations and arrangements to share and use this information;

62. *Encourages* the establishment of regional guidelines for States to use in establishing sanctions, for non-compliance by vessels flying their flag and by their nationals, that are adequate in severity to effectively secure compliance, deter further violations and deprive offenders of the benefits deriving from their illegal activities;

IX. Responsible fisheries in the marine ecosystem

63. *Encourages* States to apply by 2010 the ecosystem approach, notes the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem and decision VII/11 and other relevant decisions of the Conference of the Parties to the Convention on Biological Diversity, notes the work of the Food and Agriculture Organization of the United Nations related to guidelines for the implementation of the ecosystem approach to fisheries management, and also notes the importance to this approach of relevant provisions of the Agreement and the Code;

64. *Encourages* enhanced science for conservation and management measures that incorporate and strengthen, in accordance with international law, the precautionary approach and consideration of ecosystem approaches to fisheries management, including through implementation of the Food and Agriculture Organization of the United Nations International Strategy for Improving Information on Status and Trends of Capture Fisheries, and a greater reliance on scientific advice in adopting such measures;

65. *Calls upon* States and regional fisheries management organizations and arrangements to collect and, where appropriate, report to the Food and Agriculture Organization of the United Nations more timely and comprehensive catch and effort data, including for straddling fish stocks and highly migratory fish stocks within and beyond areas under national jurisdiction, discrete high seas stocks and by-catch and discards;

66. *Encourages* States, individually or through regional fisheries management organizations and arrangements and other relevant international organizations, to work to ensure that fisheries and other ecosystem data collection is performed in a coordinated and integrated manner, facilitating incorporation into global observation initiatives, where appropriate;

67. *Also encourages* States to increase scientific research in accordance with international law on the marine ecosystem;

68. *Calls upon* States, the Food and Agriculture Organization of the United Nations and other specialized agencies of the United Nations, subregional and regional fisheries management organizations and arrangements, where appropriate, and other appropriate intergovernmental bodies, to cooperate in achieving sustainable aquaculture, including through information exchange, developing equivalent standards on such issues as aquatic animal health and human health and safety concerns, assessing the potential positive and negative impacts of aquaculture, including socio-economics, on the marine and coastal environment, including biodiversity, and adopting relevant methods and techniques to minimize and mitigate adverse effects;

69. *Reaffirms* the importance it attaches to paragraphs 66 to 71 of its resolution 59/25 concerning the impacts of fishing on vulnerable marine ecosystems and urges accelerated progress by States and regional fisheries management organizations and arrangements on implementing these elements of the resolution;

70. *Requests* regional fisheries management organizations and arrangements with the competence to regulate bottom fisheries to adopt, in accordance with paragraph 67 of resolution 59/25, and implement appropriate conservation and management measures, including spatial and temporal measures, to protect vulnerable marine ecosystems as a matter of urgency;

71. *Welcomes* progress made in the implementation of paragraphs 68 and 69 of resolution 59/25 calling for the expansion, where appropriate, of the competence of existing regional fisheries management organizations or arrangements to regulate bottom fisheries and the impacts of fishing on vulnerable marine ecosystems or for the establishment of new regional fisheries management organizations or arrangements with such competence to cover areas of the high seas where no such organization or arrangement currently exists;

72. *Calls upon* States to urgently accelerate their cooperation in establishing interim targeted protection mechanisms for vulnerable marine ecosystems in regions where they have an interest in the conservation and management of marine living resources;

73. *Requests* the Secretary-General, in cooperation with the Food and Agriculture Organization of the United Nations, to report to the General Assembly at its sixty-first session on the actions taken by States and regional fisheries management organizations and arrangements to give effect to paragraphs 66 to 69 of resolution 59/25, in order to facilitate the review referred to in paragraph 71 of resolution 59/25 of progress on action taken with a view to further recommendations, where necessary, in areas where arrangements are inadequate and further requests that an advance unedited version of the report be made available in accordance with past practice via the Division for Ocean Affairs and the Law of the Sea website as of 15 July 2006;

74. *Requests* States and regional fisheries management organizations and arrangements to submit detailed information to the Secretary-General in a timely manner on actions taken pursuant to paragraphs 66 to 69 of General Assembly resolution 59/25 to facilitate a comprehensive review of such actions;

75. *Encourages* progress to establish criteria on the objectives and management of marine protected areas for fisheries purposes and in this regard welcomes the proposed work of the Food and Agriculture Organization of the United Nations to develop technical guidelines in accordance with the Convention on the design, implementation and testing of marine protected areas for such purposes, and urges coordination and cooperation among all relevant international organizations and bodies;

76. *Notes* that 2005 marks the 10-year anniversary of the adoption of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, and urges all States to implement the Global Programme of Action and to accelerate activity to safeguard the marine ecosystem, including fish stocks, against pollution and physical degradation;

77. *Calls upon* States, the Food and Agriculture Organization of the United Nations, the International Maritime Organization, the United Nations Environment Programme, in particular its Regional Seas programme, regional and subregional fisheries management organizations and arrangements and other appropriate intergovernmental organizations that have not yet done so to take action to address the issue of lost or abandoned fishing gear and related marine debris, including through the collection of data on gear loss, economic costs to fisheries and other sectors, and the impact on marine ecosystems;

78. *Encourages* close cooperation and coordination, as appropriate, between States, relevant intergovernmental organizations, United Nations programmes and other bodies, such as the Food and Agriculture Organization of the United Nations, the International Maritime Organization, the United Nations Environment Programme, the Global Programme of Action, and regional seas arrangements, regional and subregional fisheries management organizations and arrangements and relevant stakeholders, including non-governmental organizations, to address the issue of lost and discarded fishing gear and related marine debris through initiatives such as the analysis of the implementation and effectiveness of the existing measures relevant to the control and management of derelict fishing gear and related marine debris, the development and implementation of targeted studies to determine the socio-economic, technical and other factors that influence the accidental loss and deliberate disposal of fishing gear at sea, the assessment and implementation of preventive measures, incentives and/or disincentives relating to the loss and disposal of fishing gear at sea, and the development of best management practices;

79. *Encourages* States, directly and through regional and subregional fisheries management organizations and arrangements, and in close cooperation and coordination with relevant stakeholders, to address the issue of lost and discarded fishing gear and related marine debris through initiatives including developing and implementing joint prevention and recovery programmes, establishing a clearing-house mechanism to facilitate the sharing of information between States on fishing net types and other fishing gear, the regular, long-term collection, collation and dissemination of information on derelict fishing gear, and national inventories of net types and other fishing gear as appropriate;

80. *Also encourages* States, the United Nations Environment Programme, the Global Programme of Action, the Food and Agriculture Organization of the United Nations, the International Maritime Organization, subregional and regional fisheries management organizations and arrangements and other relevant intergovernmental

organizations and programmes to consider the outcomes of the Asia-Pacific Economic Cooperation Education and Outreach Seminar on Derelict Fishing Gear and Related Marine Debris held in January 2004 and how they may be implemented;

81. *Further encourages* States to raise awareness within their fishing sector and subregional and regional fisheries management organizations and arrangements of the issue of derelict fishing gear and related marine debris and to identify options for action;

82. *Encourages* the Food and Agriculture Organization of the United Nations Committee on Fisheries to consider the issue of derelict fishing gear and related marine debris at its next meeting in 2007, and in particular the implementation of relevant provisions of the Food and Agriculture Organization of the United Nations Code of Conduct for Responsible Fisheries;

X. Capacity-building

83. *Reiterates* the crucial importance of cooperation by States directly or, as appropriate, through the relevant regional and subregional organizations, and by other international organizations, including the Food and Agriculture Organization of the United Nations through its FishCode programme, including through financial and/or technical assistance, in accordance with the Agreement, the Compliance Agreement, the Code and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the International Plan of Action for the Conservation and Management of Sharks, to increase the capacity of developing States to achieve the goals and implement the actions called for in the present resolution;

84. *Welcomes* the work of the Food and Agriculture Organization of the United Nations in developing guidance on the strategies and measures required for the creation of an enabling environment for small-scale fisheries, including the development of a code of conduct and guidelines for enhancing the contribution of small-scale fisheries to poverty alleviation and food security that include adequate provisions with regard to financial measures and capacity-building, including transfer of technology; and encourages studies for creating possible alternative livelihoods for coastal communities;

85. *Encourages* increased capacity-building and technical assistance by States, international financial institutions and relevant intergovernmental organizations and bodies for fishers, in particular small-scale fishers, in developing countries, and in particular small island developing States, consistent with environmental sustainability;

86. *Encourages* the international community to enhance the opportunities for sustainable development in developing countries, in particular the least developed countries, small island developing States and coastal African States, by encouraging greater participation of those States in authorized fisheries activities being undertaken within areas under their national jurisdiction, in accordance with the Convention, by distant-water fishing nations in order to achieve better economic returns for developing countries from their fisheries resources within areas under their national jurisdiction and an enhanced role in regional fisheries management, as well as by enhancing the ability of developing countries to develop their own fisheries, as well as to participate in high seas fisheries, including access to such

fisheries, in conformity with international law, in particular the Convention and the Agreement;

87. *Requests* distant-water fishing nations, when negotiating access agreements and arrangements with developing coastal States, to do so on an equitable and sustainable basis, including by giving greater attention to fish processing, including fish processing facilities, within the national jurisdiction of the developing coastal State to assist the realization of the benefits from the development of fisheries resources;

88. *Encourages* greater assistance for developing States in designing, establishing and implementing relevant agreements, instruments and tools for the conservation and sustainable management of fish stocks, including the enhancement of research and scientific capabilities through existing funds, such as the Assistance Fund under Part VII of the Agreement, bilateral assistance, regional fisheries management organizations and arrangements assistance funds, the Food and Agriculture Organization of the United Nations FishCode Programme, the World Bank's global programme on fisheries and the Global Environment Facility;

XI. Cooperation within the United Nations system

89. *Requests* the relevant parts of the United Nations system, international financial institutions and donor agencies to support increased enforcement and compliance capabilities for regional fisheries management organizations and their member States;

90. *Invites* the Food and Agriculture Organization of the United Nations to continue its cooperative arrangements with United Nations agencies on the implementation of the international plans of action and to report to the Secretary-General, for inclusion in his annual report on sustainable fisheries, on priorities for cooperation and coordination in this work;

91. *Invites* the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the Secretariat, the Food and Agriculture Organization of the United Nations and other relevant bodies of the United Nations system to consult and cooperate in the preparation of questionnaires designed to collect information on sustainable fisheries, in order to avoid duplication;

XII. Sixty-first session of the General Assembly

92. *Requests* the Secretary-General to bring the present resolution to the attention of all members of the international community, relevant intergovernmental organizations, the organizations and bodies of the United Nations system, regional and subregional fisheries management organizations and relevant non-governmental organizations, and to invite them to provide the Secretary-General with information relevant to the implementation of the present resolution;

93. *Also requests* the Secretary-General to submit to the General Assembly at its sixty-second session a report on "Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments", taking into account information provided by States, relevant specialized agencies, in particular the Food and Agriculture

Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations system, regional and subregional organizations and arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and non-governmental organizations, and consisting, inter alia, of elements provided in relevant paragraphs in the present resolution;

94. *Decides* to include in the provisional agenda of its sixty-first session, under the item entitled “Oceans and the law of the sea”, the sub-item entitled “Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments”.

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Oceans and the law of the sea

Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments

Report of the Secretary-General

Summary

The present report is prepared in response to paragraph 83 of General Assembly resolution 59/25. The report contains information on steps and initiatives taken or recommended by the international community to improve the conservation and management of fishery resources and other marine living resources with a view to achieving sustainable fisheries and protecting marine ecosystems and biodiversity.

The report is based on information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations (FAO), and other appropriate organs, organizations and programmes of the United Nations system, regional and subregional organizations and arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, and other relevant intergovernmental bodies and non-governmental organizations.

The report emphasizes the importance of the full implementation by States of all international fishery instruments, whether legally binding or voluntary, which provide for conservation and management measures and sustainable use of marine living resources. It also invites States to: cooperate in all aspects of fishery conservation and management, including the establishment of new regional fisheries

* A/60/150.

management organizations where none exist in a particular region or subregion; apply both the precautionary and the ecosystem approaches; and collect and exchange fishery data and statistics.

In response to requests in resolution 59/25, the report includes information on actions taken to address the issue of lost or abandoned gear and marine debris and the questions of destructive fishing practices and the regulation of bottom fisheries. In accordance with the terms of reference of the United Nations Fish Stocks Agreement Assistance Fund, a brief report on the status and activities of the Fund is included.

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harmonization of legislation, implementation and enforcement of standards at the regional level, establishment of port reception facilities and litter recycling.

E. Large-scale pelagic drift-net fishing

112. Since the adoption of its resolution 46/215, which called for the full implementation by 31 December 1992 of a global moratorium on all large-scale pelagic drift-net fishing on the high seas of the world's oceans and seas, including enclosed seas and semi-enclosed seas, the General Assembly has repeatedly called for compliance with its provisions.

113. **States:** respondents reporting on this topic (Croatia, Portugal, Saudi Arabia, Serbia and Montenegro and the United States) stressed that all measures are in place to ensure compliance with resolution 46/215.⁴² The United States is promoting implementation of the moratorium especially in the North Pacific Ocean and the Mediterranean Sea. In the North Pacific Ocean it has been undertaking joint monitoring, control and surveillance with the other members of the NPAFC (Canada, Japan, the Republic of Korea and the Russian Federation) against third State fishing vessels targeting salmon on the high seas with the use of drift-nets.

114. **RFMOs:** CCAMLR, IATTC and NPAFC indicated that they have taken measures to ensure compliance with the moratorium on the use of drift-nets in their respective regulatory areas and the ban on direct fishing for anadromous fish on the high seas of the NPAFC convention area, where IUU fishing is conducted mainly by using drift-nets.

115. **Non-governmental organizations:** the WWF Mediterranean Programme reported that the results of its field survey in 2003 north of Morocco in the Mediterranean Alboran Sea and adjacent Atlantic waters, showed that large-scale drift-nets targeting swordfish are still being used. The estimated average net length ranges from 6.5 to 7.1 kilometres, collecting considerable by-catch of dolphins, sharks and turtles. WWF has informed ICCAT, ACCOBAMS, the International Whaling Commission, other relevant bodies and the concerned States. The Humane Society of the United States reported that large-scale pelagic drift-nets were used in 2004 off the Ischia region of Italy despite a previous Government buyout/conversion scheme and a 2002 EC regulation prohibiting drift-net fishing. Nets used range from 12 to 27 miles in length, catching many marine mammals, including sperm whales. The Humane Society submitted its findings to EU, the United States State Department, the Italian Government and relevant organizations.

F. Bottom-trawling

116. As a consequence of the overexploitation of traditional fishing grounds in marine and coastal areas, fishing activities have gradually moved to the deep sea. Owing to advances in fishing gear technologies, fishing vessels are now operating at depths greater than 400 metres, sometimes at depths of 1,500 to 2,000 metres, in order to target long-lived and slow-growing fish species, such as orange roughy, grenadier, armorhead or alfonsino, the life cycles of which are still largely unknown.

117. Concerns over the management and governance of deep sea fisheries, which have recently become a focus of debates in many international forums, include: